

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF EASTERN PENNSYLVANIA
PHILADELPHIA DIVISION**

IN RE:) Case No. 18-12944-jkf
) Chapter 13
)
) Courtroom 3
NORIS SANTIAGO,) Robert N.C. Nix, Sr.
) Federal Courthouse
) 900 Market Street
) Philadelphia, Pennsylvania
Debtor.)
) May 14, 2018
) 2:04 p.m.

TRANSCRIPT OF EXPEDITED MOTION FOR RELIEF FROM STAY/EXPEDITED
MOTION OF BARBARA WOLF FOR AN ORDER GRANTING RELIEF FROM
AUTOMATIC STAY UNDER 11 U.S. CAPITAL, SECTION 362; MOTION TO
DISMISS DEBTOR AS BAD FAITH FILING AND FOR EXPEDITED REVIEW
PURSUANT TO LOCAL RULE 5070-1(G) BY CITY OF PHILADELPHIA
BEFORE HONORABLE JEAN K. FitzSIMON
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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(continued)

For Barbara Wolf:

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1 THE CLERK: Good afternoon. This is Judge
2 FitzSimon's 2 o'clock list for May the 14th. The matter is
3 Noris Santiago, the expedite motion for relief filed by Barbara
4 Wolf, and the motion to dismiss as bad faith filing filed by
5 the City of Philadelphia.

6 Could counsels make their appearances?

7 MR. SCHOLL: Yes, I'm David Scholl for the debtor.
8 Is it possible that I could have one of the hearing devices?

9 THE COURT: Certainly, yes. Now we just have to
10 figure out which one works.

11 (Laughter/Pause/Testing Devices)

12 THE COURT: We apparently have a winner. Can you
13 hear me, Mr. Scholl?

14 MR. SCHOLL: Yes. I could probably hear you without
15 it, I can hear you better, yes.

16 THE COURT: All right. Excellent.

17 MS. THURMOND: Pamela Thurmond on behalf of the City
18 of Philadelphia.

19 MR. BIELLI: Thomas Bielli and Nella Bloom on behalf
20 of Barbara Wolf; good afternoon, Your Honor.

21 THE COURT: Good afternoon; all right.

22 What are we taking first? I will ask the City since
23 they're involved in both motions.

24 MS. THURMOND: I think I had spoken with Mr. Bielli,
25 and I think we would take the motion to dismiss first because

1 if granted, it would moot out the motion for relief.

2 But I do think, Your Honor, that there could be a
3 combined evidentiary record.

4 THE COURT: Any objection to that, Mr. Scholl?

5 MR. SCHOLL: No, Your Honor.

6 THE COURT: All right; very good.

7 Do you want to at least make openings on the motion -
8 - on the motion to dismiss?

9 MS. THURMOND: Very good, Your Honor.

10 As an initial matter, Your Honor, thank you for -- to
11 the Court for agreeing to hear us on this expedited basis. The
12 Court seeks to -- the City seeks to dismiss this debtor's case
13 as a bad faith filing. This case is really about the debtor
14 and her husband, and their 15-year history of failed promises
15 to the City about fixing the property at 1601 Mount Vernon
16 Street.

17 The debtor chose to file bankruptcy in the middle of
18 a conservatorship petition proceeding in State Court in which
19 the City is an interested party. The conservator, if
20 appointed, would make the necessary repairs to the property and
21 restore it to its historical significance.

22 The debtor jointly owns the subject property with her
23 husband. And the subject -- and the property is really
24 concerning for the City because it's in a high foot traffic
25 area, it's in the next block from a high school. It's a few

1 blocks away from a neighborhood park and playground. We are
2 concerned that the property has been designated by L&I as
3 unsafe, and it's deteriorating.

4 The City believes the debtor filed this bankruptcy
5 case to hinder and delay the conservatorship trial and the
6 City's more than a decade fight to preserve this historic
7 property. The debtor incredibly has been fined in State Court
8 at least three times by the Philadelphia Court of Pleas with
9 respect to this property. There was a -- fines issued in 2012
10 and 2013, both in the amount of \$100,000. And in April of
11 2017, the State Court issued a \$25 a day fine from June 12th,
12 2017 for every day the violations and the documentation was not
13 provided.

14 The City -- I know Your Honor -- I don't know how
15 much Your Honor will be able to hear today, but the City
16 intends to call three witnesses:

17 First, Randal Baron from the Philadelphia Historical
18 Commission. He will testify about the property being in the
19 Spring Garden Historical District since 2000 -- just since
20 2000. And that the significance of this property, both as
21 being as part of the District and also as being the property
22 that was owned by a Robert Purvis who resided in the property
23 for a number of years, and he is known as the President of the
24 Underground Railroad in Philadelphia, was the leading order and
25 supporter of getting rid of slavery.

1 In 2003, the debtor and her husband presented the
2 Philadelphia Historical Commission with a proposal for
3 essentially the complete rehabilitation of this property. That
4 -- it would have included a multi unit building. That was
5 approved by the Philadelphia Historical Commission, but it's
6 never come to fruition.

7 Throughout the years, the Philadelphia Historical
8 Commission worked with the Santiagos to approve seven different
9 applications for work on the property, most of which was never
10 completed. In 2012, the Philadelphia Historical Commission
11 approved the immediate removal of the rear portion of the
12 property. There had been a partial collapse of the rear
13 portion of the property, and then with the L&I in connection
14 with the Philadelphia Historical Commission immediately with
15 court permission removed the rear portion of the building to
16 prevent injury to the public. That was with the proviso that
17 the defendants were to restore the historical features of the
18 rear portion of the building within one year; that has not
19 happened.

20 And finally Mr. Baron will testify the Philadelphia
21 Historical Commission is desirous of the repair of the subject
22 property and the restoration of it to a historical
23 significance. And we think the conservatorship is a way for
24 that to happen after many, many years of trying to get the
25 Santiagos to do that.

1 Next we have a Thomas Rybakowski who is an L&I
2 inspector. He will testify as to the different classifications
3 used by L&I, and that the property is currently unsafe, about
4 the history of the City's enforcement actions against the
5 property, and his concerns about what the current state of the
6 property is, and his concerns about that.

7 And finally the City will call Matthew Burton
8 (phonetic) who will testify as to the City's proofs of claim
9 that are filed in this current case.

10 THE COURT: So that's someone on behalf of the City,
11 all right, thank you; okay.

12 MS. BLOOM: Good afternoon, Your Honor. Nella Bloom
13 of Bielli & Klauder here on behalf of Barbara Wolf the movant
14 in this matter, and also the petitioner in the conservatorship
15 matter, captioned City -- excuse me -- Wolf versus Santiago,
16 January Term 2018, Number 4225.

17 Your Honor, at this point, would you like us to
18 present an opening argument now, or --

19 THE COURT: I only want to hear about the motion to
20 dismiss right now. So if you've got something to add to what
21 Ms. Thurmond had to say, I will gladly hear it. If you don't,
22 I'll hear from Mr. Scholl.

23 MS. BLOOM: Thank you, Your Honor. The only thing
24 that we would add is that we did file a joinder to the City of
25 Philadelphia's motion regarding our request for a three-year

1 bar. The three-year bar in this case, given the extensive
2 history of litigation relating to the property, and the --
3 since 2009, at least, and given the fact that the debtor has
4 previously filed a bankruptcy case, and that case was -- after
5 confirmation was dismissed for failure to file -- pardon me --
6 to make plan payments, it is our position that a bar would be
7 in the best interest of not only -- not only the City of
8 Philadelphia, not only the conservator -- excuse me -- the
9 petitioner, but also third parties and stakeholders in the
10 community because a bar would permit the conservator, if
11 appointed, to actually fulfill the duties of conservatorship to
12 have the property be -- the conditions of the property be
13 abated, have the property be properly -- essentially returned
14 to active use, and to have the historic qualities of the
15 property preserved.

16 Thank you.

17 THE COURT: Thank you. Okay.

18 MR. SCHOLL: Well --

19 THE COURT: Mr. Scholl?

20 MR. SCHOLL: Yes, Your Honor. Your Honor, I -- I
21 filed this -- it looked like a typical Chapter 13 case, nice
22 little case, one prior filing. And I might add what happened
23 in the prior filing, there was nothing filed by the City in the
24 entire case, and it existed for several years. And not only
25 that, the debtors made significant payment. They paid over

1 \$50,000 to the City during the course of the case.

2 And, yes, it was ultimately dismissed, but it wasn't
3 as if the debtors were, from the outset, not making payments,
4 they made their payments for a considerable time. And, of
5 course, we did file a motion to extend the stay, and we
6 explained what had happened there. The debtor thought that
7 they had a resolution, and that they didn't need the bankruptcy
8 anymore, and they decided not to continue to make the payments,
9 but that's all that happened.

10 It is somewhat surprising when we're talking about a
11 historical building -- and incidentally, my clients bought this
12 building in 1977. Nobody said anything about this being a
13 historical building for -- I'm going to say -- 25, 30 years
14 that they owned it. In fact, they ran cleaning -- cleaners
15 there. Nobody ever said, hey, this is -- this property was
16 owned by somebody special, and this should be a historic
17 property, and there should be something done.

18 But -- so they -- there's been -- a lot of time
19 that's really gone by here. Many, many years have gone by, and
20 the debtors in their last case, as I said, made considerable
21 payments.

22 And then now, at a point where they're attempting to
23 get financing to get a considerable loan that would be a high
24 amount of funds, and be able to actually improve this property
25 now, in accordance with what the historical society would wish,

1 as well as the City, but --

2 THE COURT: Mr. Scholl, did I understand your
3 pleading? I read your pleading to say that they had financing.

4 MR. SCHOLL: Yes. Well, they have a pre-commitment
5 for financing, it isn't finalized yet. There's a number of
6 steps that have to be gone through to finalize financing,
7 particularly when there's the Historical Society involved, as
8 well as the City. And the Santiagos are not -- while they are
9 homeowners, they are not wealthy people that have a lot of
10 funds that they can just pour into doing these items, but
11 they're trying their best to do it. And, frankly, if there's a
12 conservator appointed, I don't see that they're going to be
13 able to do it any faster or any better than the Santiagos.

14 So why -- the conservator ship process is an unusual
15 process, it doesn't --

16 THE COURT: Mr. Scholl, I'm not going to accept your
17 testimony on what that process is, so --

18 MR. SCHOLL: Right. Well, you'll hear about that,
19 they'll tell you about that.

20 THE COURT: I'm sure I will hear about it, but --

21 MR. SCHOLL: But I -- I --

22 THE COURT: I'm not looking for testimony from the
23 lawyers, as much as I love you all, and love to hear you talk.

24 MR. SCHOLL: Well, the defenses that I stated -- I
25 mean first of all, I questioned whether Mr. Wolf, or any

1 neighborhood person that just thinks they don't like the
2 property down the street, can come in and just file something,
3 and get relief from the automatic stay to proceed with that.

4 THE COURT: Well, I'm not proceeding on the relief
5 from the stay right now.

6 MR. SCHOLL: Well --

7 THE COURT: I'm only proceeding on the motion to
8 dismiss.

9 MR. SCHOLL: Is their motion. The City's motion to
10 dismiss. Now -- I'm accustom to arguments that there's bad
11 faith filings. But you really see it when it's only a second
12 filing, and when the prior filing was confirmed without any
13 objection by the same creditor that's been involved in this
14 process since the very beginning. So it's a little -- it's
15 certainly not the norm to have that kind of a --

16 THE COURT: Understood. Mr. Scholl, what you're
17 going to have to demonstrate to me is that there's good reason
18 why, from at least 2012 on, your clients have failed to do
19 anything that they were required to do with this property.
20 That's what's going to have to -- you're going to have to show
21 me if they can, in fact, demonstrate to me that they've taken
22 adequate steps, right?

23 MR. SCHOLL: Well, they will --

24 THE COURT: That's -- that's the issue.

25 MR. SCHOLL: They will be glad to --

1 THE COURT: The issue is whether or not they've got a
2 case from the standpoint of danger to the public, historical
3 basis, and the fact that your clients have had ample
4 opportunity to do this, to demonstrate that they think that
5 this is a bad faith filing.

6 And what you then get to do is show me why all -- or
7 that the last six years they've been diligently working on this
8 done, right?

9 MR. SCHOLL: Well, I --

10 THE COURT: That's what I'm expecting to hear.

11 MR. SCHOLL: I don't think it's a total of six years,
12 but, yes. They understand that, and this is a building they've
13 put tremendous effort into, and they will continue to do that
14 because they understand that there's many aspects of this, the
15 historic aspect, the safety aspect.

16 But the only point I'd make is this: There was a
17 long periods of time that have gone by here, and there's been
18 no action, neither the City's, not by the neighbors --

19 THE COURT: And you know, and you can query them
20 about that all you want, and then I'll figure out --

21 MR. SCHOLL: Well, I would.

22 THE COURT: -- whether or not it matters to me, Mr.
23 Scholl.

24 Let me put it this way: It's not the -- laches, when
25 you're talking about City activities, is a little different

1 than it is when you're talking about private activity, the case
2 law is pretty clear on that.

3 So, you know, you're going to have to show me a lot,
4 but I'm happy to hear it from you all.

5 MR. SCHOLL: All right. Well, we'll present as best
6 we can, Your Honor.

7 THE COURT: All right; very good.

8 MR. SCHOLL: All right.

9 THE COURT: Ms. Thurmond?

10 MS. THURMOND: With that, Your Honor, the City would
11 call its first witness.

12 THE COURT: Whoever that is from L&I, please come up.

13 THE CLERK: You're going to leave your stuff here,
14 you can't take anything on the stand.

15 MR. BARON: Here?

16 THE CLERK: Yeah, you can leave it right here.

17 MR. BARON: Not even this?

18 THE CLERK: Not even this, no.

19 THE COURT: Some see this nice lady, and she'll swear
20 you in, and then you'll get up in this box.

21 MS. THURMOND: Go to Ms. Jackson, and she'll swear
22 you in.

23 THE COURT: Over here, sir.

24 MS. THURMOND: Oh, Ms. Jackson is --

25 MR. BARON: Wrong place.

Baron

15

1 MS. THURMOND: Sorry.

2 THE COURT: It's all right.

3 MS. THURMOND: Your Honor, do you have a preference?

4 Do you want me to stand at counsel --

5 THE COURT: She hasn't finished. So -- but, no.

6 MS. THURMOND: Oh, I'm sorry.

7 THE COURT: You can -- you are more than welcome to
8 stay there with your papers.

9 RANDAL BARON, MOVANT'S WITNESS, SWORN

10 ELECTRONIC COURT RECORDER: Give your name for the
11 record, and spell your last name, give your address.

12 THE WITNESS: Randal Baron, B-A-R-O-N, 1326 Spruce
13 Street, Philadelphia, Pennsylvania 19107.

14 MS. THURMOND: Your Honor, may I just make a
15 logistics note? We --

16 THE COURT: Were you guys able to agree on any facts
17 at all? You guys stipulated to anything on this?

18 MS. THURMOND: I -- in the interest of time, we have
19 not had fulsome discussions the debtor.

20 THE COURT: All right.

21 MS. THURMOND: We --

22 THE COURT: So I'm sorry, go ahead and make the point
23 you were going to make.

24 MS. THURMOND: We -- in the interest of efficiency,
25 we have put together exhibit binders, Your Honor has a copy,

Baron - Direct

16

1 the witness has a copy, I've shared a copy with Mr. Scholl and
2 Mr. Bielli.

3 If I don't end up using an exhibit, or if Your Honor
4 sustains an objection on it, I will just, at the end of the
5 hearing, remove it. But I just -- for convenience sake, I put
6 it in a binder.

7 THE COURT: That's fine.

8 DIRECT EXAMINATION

9 BY MS. THURMOND:

10 Q Mr. Baron --

11 A Yes.

12 Q -- good afternoon.

13 A Hello.

14 Q Can you please state your employer?

15 A City of Philadelphia, Philadelphia Historical Commission.

16 Q And how long have you worked for the Philadelphia
17 Historical Commission?

18 A 34 years.

19 Q And what is your title?

20 A Preservation Planner III.

21 Q And what are your primary responsibilities as a
22 Preservation Planner III?

23 A Historic designation, and primarily design review. So
24 when people want to alter, or demolish, or whatever, buildings
25 that are on the register, I help with the review.

Baron - Direct

17

1 Q Okay. Do you know what the Spring Garden Historical
2 District is?

3 A Yes, I do.

4 Q Can you explain to the Court what that is?

5 A It's a historical district that was designated in 2000,
6 and it goes from approximately 15th Street to about 23rd Street
7 from Spring Garden to Fairmount, and it is a district that is
8 primarily Italianate style housing from the 1850's.

9 Q And are there different categories of properties in this
10 District?

11 A Yes.

12 Q Can you explain to the Court --

13 A The -- within any historic district, but including this
14 one, there are buildings that are non-contributing, such as the
15 gas station that's on Spring Garden Street, there are the
16 majority of the buildings which are typical 1850's row houses,
17 and then there are some buildings which I'll call significant
18 to the District because they have outstanding value, either
19 because of who lived there, or because they have a special
20 architecture, something like that.

21 Q Mr. Baron, are you aware of the property at issue, 1601
22 Mount Vernon Street?

23 A Yes, I am aware.

24 Q Is that property within the Spring Garden Historical
25 District?

Baron - Direct

18

1 A Yes, it is -- it is called significant within the Spring
2 Garden Historic District.

3 Q And why -- when did you first become aware of the property
4 at 1601 Mount Vernon Street?

5 A Well, when we're preparing the Historic District itself,
6 which was in the 1990's, and at the time of its designation in
7 2000, we were very aware of it.

8 Q And why is the -- let me just call it the property.

9 A Um.

10 Q If I say "the property," you'll understand that I mean
11 1601 --

12 A Yes.

13 Q -- Mount Vernon Street? Why is the property classified as
14 significant within the District?

15 A The -- because Robert Purvis lived there, and Robert
16 Purvis was a very important abolitionist, and he wrote
17 extensively, he lobbied for abolition, and he was very involved
18 in freeing -- getting slaves from the south on their passage
19 northwards.

20 Q Did Mr. Purvis use the property as a stop in the
21 underground railroad?

22 A No, his -- he -- this property was a property that he
23 bought after the Civil War. And -- but it -- he was there for
24 decades of his life, so --

25 Q Mr. Baron, you have a binder in front of you -- you should

Baron - Direct

19

1 have a binder in front of you, it looks like --

2 A I don't.

3 MS. THURMOND: Oh. Ms. Jackson, do you mind?

4 THE COURT: We have -- we have it down there.

5 THE WITNESS: Okay; thank you.

6 Q Turn to Exhibit 28 with me. Let me know when you're
7 there.

8 MS. THURMOND: Ms. Jackson, can you hear me okay? Do
9 you need me to go --

10 A Yes.

11 MS. THURMOND: Okay.

12 THE COURT: She's getting it.

13 A I do have it.

14 Q Okay. Can you take a look at this document and tell me
15 whether you're familiar with it?

16 A Yes, this is the decision letter from an application when
17 the designer for the Santiagos came before the Historical
18 Commission to renovate the property, to demolish a portion at
19 the rear, and to build a three-story addition.

20 Q Okay. And when was this proposal made?

21 A December -- the decision of meeting was December 12th,
22 2003.

23 Q And what type of property was the Santiagos going to
24 develop in 2003?

25 A Well, it was a -- a row house that had a store -- had at

Baron - Direct

20

1 one point had a store in the first floor, but it was empty at
2 the time that the proposal came in, and it was already in
3 fairly poor condition; missing windows, and so forth. And the
4 Historical Commission was very eager to see it renovated and
5 did, in fact, approve the proposed work.

6 Q And do you know what type of property the Santiagos were
7 going to put on that location? Was it going to be a single-
8 family home, a commercial building?

9 A It was going to be multiple residential units, and there
10 was going to be parking garages for multiple cars for the
11 different units.

12 Q Do you know if this renovation ever took place?

13 A It did not, although the garage portion was demolished
14 early on, but the rest -- but the actual development did not
15 occur.

16 Q Can you flip one more back and go to Exhibit City 27?

17 A Yes.

18 Q And this is -- I'll just tell you -- is a composite
19 exhibit of several different documents. Can you just flip
20 through the several pages, and let me know if you're familiar
21 with these documents?

22 A Yes, I am.

23 Q Can you tell the Court what these documents are.

24 A So at various times, the -- although the major work was
25 not done, there were violations that were issued because the

Baron - Direct

21

1 building continued to deteriorate. At various points, we
2 received applications to do pieces of work, sort of subsets of
3 the larger worker. And we approved at various times windows,
4 doors, cornice, roofing, shoring up walls. So these are --
5 these are approvals which the Historical Commission stamped
6 approval for to do those pieces of work.

7 Q All right. I'm not going to take you through each one,
8 but let's just take the first one which I believe are the first
9 two pages of the document of the Exhibit 27. Why don't you
10 tell me what work was sought to be done?

11 A Well, the one in 2007 here is for windows, doors, cornice,
12 woodwork, masonry work, and roofing work.

13 Q And do you know whether that work was done?

14 A That work was not done at that time.

15 Q Okay. And then let's go to the next one which is the next
16 two pages from April 3rd, 2009.

17 A Shoring up of walls. There was a point where there was
18 some wood that was installed to help shore up some walls.
19 Ultimately that only lasted a certain amount of time, but there
20 was some of that.

21 Q And the next one occurred 6/6/2009, can you tell me what
22 that was for, and whether the work was done?

23 A This is for roofing. I do think there was some roofing
24 done at some point, but because of the flat roof, I can't tell
25 you whether it was or it wasn't.

Baron - Direct

22

1 Q Okay. What about the one for 6/24/2010?

2 A That one was for masonry work, doors, windows, cornice;
3 that was not done.

4 Q And then for 2/3 -- or for February 3rd, 2011, the next
5 two pages.

6 A That was for demolition of a portion of wall, and
7 rebuilding area and salvage brick; that one was not done. Add
8 new windows, also not done.

9 Q Okay. And then just skipping ahead to the last one, which
10 is -- it doesn't have a date, at least on the first page, but
11 it does say new cornice to note and match 1603 Mount Vernon
12 Street.

13 A Yes, that one the cornice was -- has still, to this day
14 not been done.

15 Q Okay. So the property to this day does not have a
16 cornice.

17 A It does not.

18 Q Did there come a time when a portion of the property was
19 taken down or demolished?

20 A Yes, there was a court case and at the -- the resolution
21 of that particular court case, Judge Moss (phonetic) ordered
22 that the rear portion of the property, the rear L could be
23 demolished, but with the proviso that it be rebuilt within one
24 year.

25 Q All right. Can you turn to Exhibit City 8? Let me know

Baron - Direct

23

1 when you're there.

2 A Yes, I'm there.

3 Q Is this the court order that you were referencing just now
4 regarding the demolition of the rear portion, or the rear L of
5 the property?

6 A Yes.

7 Q Okay.

8 A This is from 2012.

9 Q Yes. When's the last time -- and why did the Philadelphia
10 Historical Commission approve the removal of the rear half of
11 the building at that time in 2012?

12 A Well, the Licenses & Inspections was very concerned that
13 that portion had become a real danger, and it seemed that even
14 after all of the attempts to get the owner to repair it, it was
15 not done. So the City came to the point where they said this
16 must be done because of the imminent danger, and so it -- by
17 allowing that portion to come down, we were able to save the
18 part that was still safe enough to remain.

19 Q When is the last time you visited the property?

20 A I was there in April, I think, the 17th.

21 Q Of this year.

22 A Of this year, um-hum.

23 Q And what was the condition of the property at the time of
24 your visit?

25 A The property has -- the portion where the rear was

Baron - Direct

24

1 demolished has a temporary wall that is, to extent, peeling
2 away. There is a -- there is a piece in the back of the
3 building that is essentially a troth for water because there
4 was the former basement of the rear L. There is a lot of
5 masonry damage. Because the cornice is missing, water streams
6 down the wall, and so that allows the water to get into the
7 bricks. And then when it freezes, that causes the face of the
8 bricks to start to spall off. It has open windows on the side
9 facing 16th Street, and water can get in there. And -- so
10 generally I would say it's in a condition that a person looking
11 at it would say it's an eyesore.

12 Q What does the Philadelphia Historical Commission want for
13 this property? Or what would you like to see happen with this
14 property?

15 A We would like to see the property renovated, and brought
16 back to use. We would like to see the brickwork repaired, the
17 windows installed, the cornice put back, the rear L rebuilt per
18 the court order.

19 Q Is -- is the Philadelphia Historical Commission asking for
20 this to be turned into some kind of museum, or --

21 A No

22 Q -- or something like that?

23 A No, in fact, the Historical Commission approved a proposal
24 for Mr. Santiago that was far from a museum by including an
25 addition, and garages, and so forth. The whole idea was to

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1 make it a -- something that could be profitable, and where the
2 use would help pay for the renovations.

3 Q All right. So the -- a proposal that you're acknowledging
4 is from the 2003 proposal, is that correct?

5 A Correct.

6 Q And that would have -- the Santiagos, if they would have
7 done the work, would have built private housing?

8 A Exactly.

9 Q Okay.

10 A And this is an area with a great deal of housing demand,
11 so it wouldn't be difficult to get people to --

12 Q Are aware of the conservator ship petition and action that
13 was proceeding in State Court prior to this bankruptcy filing?

14 A I am aware of it, yes.

15 Q What is the Philadelphia Historical Commission's petition
16 -- position as to the appointment of a conservator? Are you --

17 A Well, I think that it -- we have seen conservatorships be
18 successful on a number of properties in the City to actually
19 renovate the buildings and make them safe, and brought back to
20 useful life. So in my opinion, it is a way to preserve the
21 building, and to make the neighborhood sort of whole, and keep
22 people safe.

23 MS. THURMOND: I have nothing further.

24 THE COURT: Okay.

25 CROSS-EXAMINATION

1 BY MR. SCHOLL:

2 Q As far as the historical significance of the building,
3 when did the historical society first indicate that there was
4 historical aspects to this building?

5 A Well, first I'd like to say that I don't work for the
6 Historical Society, that is a private nonprofit that preserves
7 papers, and dresses, and materials. Historical Commission is a
8 part of City Government, and the Historical Commission
9 designated the building in 2000.

10 Q 2000, okay. And is there some reason that there was no
11 activity or no designation prior to that time?

12 A The Historical Commission has been designating properties
13 for many, many years. And the Commission actually has a
14 relatively small staff, but there are many, many neighborhoods
15 that are very historic that don't yet have historic districts.
16 For instance, Germantown, which is a very ancient section of
17 this City. And actually 2000 is relatively early from the
18 standpoint of the City's actions for creating a historic
19 district.

20 Q Okay. Now you mentioned that there was various work that
21 was supposed to be done to the building on several occasions,
22 it was part of your Exhibit 28, I believe.

23 A But --

24 Q And then I think you were saying that the work had not
25 been done. Now on what basis are you saying that that work was

1 not done?

2 A Well, for example, the -- the work to the rear L to put in
3 windows, to make it safe, to work on that wall was never done
4 to the extent that the City found that it had to come down. So
5 that was -- repairing that rear L was part of the 2003
6 application, and it was not -- it was not done and, therefore,
7 it came down.

8 The -- when I visited the building in April of this
9 year, it is still missing windows on the sides of the building,
10 the brick -- the brick is still in very poor condition, the
11 cornice is still missing. So my -- my basis of it is looking
12 with my own eyes.

13 Q All right. How many times have you been to the building
14 since 2003?

15 A Many times. Many times. I mean we work in the historic
16 district -- for instance, that whole block, there's been
17 renovations to nearly every building on the block. And by
18 going to look at those renovations, and actually go by this
19 building on the way.

20 Q All right. And I think you're agreeing that the building
21 -- it's not practical, nor is anybody planning to build a
22 museum there or anything of that nature. I think --

23 A Well, I haven't -- I haven't heard of anybody planning to
24 build a museum. But in general, I think that the funds for
25 creating new museums are in very short supply in the whole

1 country, and so the best bet for getting something renovated is
2 private investment.

3 Q Right. I think you -- you believe that the best
4 development of this property is as residential housing, is that
5 right?

6 A Well, if one didn't have to concern one's self with
7 finances, I think it would be a wonderful thing to tell the
8 story of Robert Purvis in this house, but I think it's
9 impractical. So I think that considering the practical
10 realities, I think that housing is the most likely of source of
11 use and income for this property.

12 Q Right. You never told the Santiagos that housing was not
13 a suitable development of this property, did you?

14 A We never said that, no.

15 Q All right. So even --

16 A In fact, we approved -- we approved housing.

17 Q Even today, that would be an acceptable development of
18 this property, is that right?

19 A Yes.

20 Q And is there some reason that you believe that a
21 conservatorship would be superior to the Santiagos actually
22 doing it themselves?

23 A Well, I think that the Santiagos have had a very large
24 number of years to renovate it, and I'm aware of even many
25 people who have tried to partner with Mr. Santiago in

1 development, and have been rebuffed over the many, many years.
2 So I think that just the actualities of what has not happened
3 would seem to tell us that it's unlikely that the Santiagos are
4 going to do a development there.

5 Q But I suppose if they presented to you evidence that they
6 were prepared to begin, even now, that would be satisfactory to
7 you, would it not?

8 A Well, I would -- I've seen evidence that they intended to
9 do something over many. They hired a designer, they came to
10 the Commission, they applied for permits, but they ultimately
11 did not follow through.

12 Q Okay. But if they'd be prepared to follow through at this
13 point, then their continued position would be acceptable, is
14 that right?

15 MS. THURMOND: Your Honor, I think this calls for
16 speculation about what --

17 THE COURT: It is pretty speculative, Mr. Scholl. I
18 don't think it helps you actually, I think it hurts you.

19 MR. SCHOLL: Okay.

20 THE COURT: The answer is they have been given lots
21 of opportunities, and they haven't shown anything. So the real
22 answer to your question is no, I just don't believe that they
23 would do it, even if they came that way.

24 So I don't think --

25 MR. SCHOLL: All right.

Baron - Cross/Scholl

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1 THE COURT: I think if you beat this horse, that's
2 the answer you're going to get, and you're not going to like
3 it.

4 MR. SCHOLL: Perhaps, Your Honor. I'm not -- I'm not
5 that familiar with the witness or the evidence, so just trying
6 to learn. All right.

7 Can you hold on just a second, please?

8 (Pause)

9 BY MR. SCHOLL:

10 Q Isn't it true that the Santiagos were making considerable
11 improvements to the property until the wall collapsed?

12 A I'm not aware of these improvements. The -- the one, I
13 would say, visible thing that was done were, I think, six
14 windows on the front facade. Other than that, I'm not aware of
15 any improvements that they have done over the years.

16 Q Are you aware that the Santiagos believe that the walls --
17 the building should be completely torn down when they were
18 partially torn down?

19 MR. SANTIAGO: Because of most damage --

20 A I -- I believe that the Santiagos would like the entire
21 building to be demolished.

22 Q Pardon?

23 MR. SANTIAGO: Because it's going to fall, that's
24 why.

25 A They have asked --

Baron - Cross/Scholl

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1 MS. THURMOND: Can we --

2 A They have, in fact, said that they would like to see it
3 demolished.

4 Q Right. They did tell you that.

5 A Yes, I heard them say that, yes. I've heard Mr. Santiago
6 say that.

7 Q Right, and that could have furthered development of the
8 property, wouldn't it?

9 A It would have completely removed the historic character of
10 the -- of the building. It would have -- it would have
11 destroyed the historic building, that's what it would have
12 done.

13 Q All right.

14 MR. SCHOLL: I have no further questions; thank you.

15 THE COURT: All right. Redirect?

16 MS. BLOOM: Your Honor, may I?

17 THE COURT: On redirect or not?

18 MS. BLOOM: Not on redirect, on direct.

19 THE COURT: Okay. You guys didn't stand up before, I
20 didn't think you were interested. Go ahead.

21 MS. BLOOM: My apologies, Your Honor.

22 THE COURT: That's all right.

23 CROSS-EXAMINATION

24 BY MS. BLOOM:

25 Q I only have a very few questions for you, Your Honor. My

Baron - Cross/Bloom

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1 first question is you had testified earlier that the entire
2 neighborhood was -- the entire Spring Garden neighborhood was
3 designated an historic neighborhood in approximately 2000, is
4 that correct?

5 A Correct.

6 Q Yes. Would that make a difference as to whether an
7 existing owner of property within that neighborhood would need
8 to adhere to the -- to any different requirements in terms of
9 development? If there was an existing owner, would they then
10 be exempt?

11 A Yes, the -- the Historic Preservation Ordinance
12 specifically says that an owner must keep a historic property
13 in good repair, such that it's not demolished by neglect.
14 There's a whole section of the ordinance on that. As well,
15 Licenses & Inspections has their own separate ordinances that
16 are about the like and so forth. But, yes, there is something
17 separate in the Historic Preservation Ordinance.

18 Q Would you characterize this property currently to be in
19 good repair?

20 A No, I would not.

21 MS. BLOOM: Thank you very much. Thank you, Your
22 Honor.

23 THE COURT: Any redirect? Recross?

24 MR. SCHOLL: No, I have no recross.

25 THE COURT: Okay.

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1 REDIRECT EXAMINATION

2 BY MS. THURMOND:

3 Q Mr. Baron, why is the Philadelphia Historical Commission
4 not in favor of the demolition of the entire building at this
5 point?

6 MR. SCHOLL: Your Honor, what are we proceeding now
7 on? On what petition?

8 THE COURT: She's redirect.

9 MR. SCHOLL: Redirect? I didn't have any recross.

10 THE COURT: You don't get it until after the
11 redirect. You can -- you want to cross on Ms. Bloom?

12 MR. SCHOLL: No. First -- first it was questions,
13 and then there was -- there was cross-examination, and then
14 there was some more questions, and now I didn't ask any further
15 questions.

16 THE COURT: No, those are -- the question by Ms.
17 Bloom, now there's the redirect by Ms. Thurmond, and you will
18 get to then --

19 MR. SCHOLL: Oh, all right.

20 THE COURT: - have recross at that point, if you want
21 it.

22 MR. SCHOLL: All right.

23 BY MS. THURMOND:

24 Q Mr. Baron, in light of the moving, why don't I repeat my
25 question. Why is the Philadelphia Historical Commission not in

Baron - Redirect

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1 favor of the demolition of the entire building at this point?
2 A Well, the Philadelphia City Council passed the ordinance,
3 the Preservation Ordinance in order that the City of
4 Philadelphia can preserve its historic monuments. This is for
5 the education of the public, the values of the neighborhood,
6 and so -- and particularly when a building is considered
7 significant, it is an elevated level of significance. And so
8 the Historical Commission wants to preserve the building to
9 further all of those values that are in the Historic
10 Preservation Ordinance.

11 MS. THURMOND: I have nothing further.

12 MS. BLOOM: Nothing.

13 MR. SCHOLL: Nothing further, Your Honor.

14 THE COURT: Nothing further. You may step down, Mr.
15 Baron; thank you.

16 MR. BARON: Should I leave this?

17 MS. THURMOND: You --

18 THE COURT: Yes, leave that right there.

19 MS. THURMOND: Leave that there, but you may gather
20 your belongings. Is the Court ready for me to call my next
21 witness?

22 (No audible response heard)

23 MS. THURMOND: The City would call Thomas Rybakowski
24 to the stand. Hopefully I pronounced your name correctly.

25 MR. RYBAKOWSKI: That's okay, I'm used to it.

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1 THE COURT: Please come up and be sworn. We'll
2 listen carefully and try to get it right.

3 THOMAS RYBAKOWSKI, MOVANT'S WITNESS, SWORN

4 ELECTRONIC COURT REPORTER: State your name, spell
5 your last name, and give your address.

6 THE WITNESS: Thomas Rybakowski, T H O M A S R Y B A
7 K O W S K I, City of Philadelphia, Licenses & Inspections, 4718
8 Mercer, Philadelphia, P A.

9 ELECTRONIC COURT REPORTER: Could you spell your last
10 name again?

11 THE WITNESS: Sure, R Y B A K O W S K I.

12 ELECTRONIC COURT REPORTER:

13 THE WITNESS: You're welcome.

14 DIRECT EXAMINATION

15 BY MS. THURMOND:

16 Q Good afternoon. Can you please state your employer for
17 the record?

18 A City of Philadelphia, License & Inspections.

19 Q And I can call it L&I for short, is that okay with you?

20 A That's what the shirt says.

21 Q How long have you worked for L&I?

22 A Approximately three and a half years.

23 Q And what is your title with L&I?

24 A Building Inspector.

25 Q And as a building inspector with L&I, what are your

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1 primary responsibilities?

2 A I'm assigned to the Contractual Services Unit. We are
3 assigned the designation of properties unsafe and
4 eminently (sic) dangerous.

5 Q Can you -- are you aware of whether L&I uses different
6 classifications to describe properties?

7 A Yes, specifically in my unit, we declare properties unsafe
8 and eminently (sic) dangerous.

9 Q So are there three classifications: safe; unsafe; and
10 eminently (sic) dangerous?

11 A Yes.

12 Q Okay. I think we know what safe is, but can you tell us
13 what unsafe and imminently dangerous mean, at least with
14 respect to L&I?

15 A Unsafe would be that it has some structural problems or
16 deficiencies with the structure. And eminently dangerous is
17 just that, that it's going to pose a threat right then and
18 there, and that there's significant structural issues with the
19 property, and that it is eminently (sic) dangerous to the
20 public right then and there.

21 Q So if a property was eminently (sic) dangerous, what are
22 the things that L&I would be concerned about?

23 A We would be very concerned with a collapse happening
24 eminently (sic) right then, and at that moment in time.

25 Q So you would be concerned about pedestrian and vehicular

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1 traffic in a collapse?

2 A The general public, and the occupants of the property at
3 that time, yes.

4 Q Okay. Are you aware of the property at issue at 1601
5 Mount Vernon Street?

6 A Yes, very.

7 Q Which you heard me speak with Mr. Baron, I'm just going to
8 call it the "property," is that okay with you?

9 A That's fine.

10 Q When did you first become aware of the property?

11 A The first time I was made aware of it was before the court
12 case that was filed in 2016.

13 Q Are you aware of who the owner of the property is?

14 A Yes.

15 Q And who are they?

16 A Mr. Santiago and Mrs. Santiago.

17 Q So Miguel and Noris Santiago?

18 A Yes.

19 Q And that would be Mr. Santiago, Senior, is that correct?

20 A Correct.

21 Q You said you became engaged -- became aware of this
22 property in light of the 2016 court case, which we'll get to.
23 But prior to that, did you review L&I's records with respect to
24 the property?

25 A When we -- when I first became employed by L&I, we always

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1 knew about this property. The property has a long list or a
2 long history with the Department, going back to when it was
3 partially demolished under a court order in 2012.

4 So -- and being that it's on North 16th Street, a lot
5 of our inspectors have seen the property, and have notated the
6 different conditions with it. So it is on our radar a lot.

7 Q Okay. Can you explain to me, and to the Court, what's at
8 that property? What kind of property is it?

9 A The property is a residential property, it's three
10 stories. It sits -- it's a corner property, it sits at the
11 corner of 16th and Mount Vernon. It is directly across the
12 street from the parking lot of Franklin Learning Center. It
13 has significant designation of unsafe at the moment. At the
14 time, it was designated as eminently (sic) dangerous before the
15 partial demolition took place under a court order.

16 Q All right. You have a binder of exhibits in front of you.

17 A Yes.

18 Q Can you turn to Exhibit Number 2, and let me know when
19 you're there?

20 A The pictures?

21 Q Yes, the pictures.

22 A Yes.

23 Q First let me ask you, do you recognize these pictures?

24 A Yes.

25 Q Why do you recognize them?

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1 A Because I took them.

2 Q Okay. When did you take them?

3 A April 26th, 2018.

4 Q And for what purpose did you take these pictures when you
5 were at the property on April 26th, 2016?

6 A They were in conjunction with a court order with a
7 conservatorship hearing that was taking place at that time. On
8 April 26th, I was to meet the conservatorship party, including
9 their engineer at the location, for an interior and exterior
10 inspection.

11 Q Okay. Do these photos fairly and accurately depict the
12 property at 1601 Mount Vernon Street as of the time you visited
13 on April 26th, 2018?

14 A Yes.

15 Q All right. So I want you to go -- they're not numbered,
16 unfortunately -- but one, two, three, four -- five pictures in.
17 You'll see a picture of some men standing on a street corner,
18 do you see that?

19 A Yes.

20 Q Okay. So are we looking at the front of the property in
21 this picture?

22 A You're looking at the front of the property, specifically
23 heading north on that -- on this picture is 16th Street, and
24 the adjacent street with the historical designation sign is
25 Mount Vernon.

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1 Q Okay. So from in front of the picture, it is Mount Vernon
2 going this way, and then it is North 16th Street going this way
3 on the side of the property --

4 A Yes.

5 Q -- is that --

6 A Where -- where the utility pole is, that's North 16th
7 Street, and the historical designation sign is Mount Vernon.

8 Q Okay. We'll come back to the pictures, but you can stop
9 there for now. Can you turn to -- give me one second --
10 Number 3 in the binder? Let me know once you're there.

11 A It's the complaint action of Number 2070.

12 Q Um, I don't know what the numbers are, but it is a
13 complaint action dated February 9th, 2009.

14 A Yes.

15 Q Okay. Are you familiar with this document?

16 A Yes.

17 Q Can you tell the Court what this document is?

18 A It is a document dating from the term of 2009 where there
19 was a equity court case brought against the property owner of
20 1601 Mount Vernon for repairs that needed to be done to the
21 property.

22 Q Were there active L&I violations at the time this
23 complaint was filed?

24 A Yes.

25 Q And what were those?

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1 A Those were the eminently (sic) dangerous condition of the
2 property for the known back L of the location.

3 Q Okay. So if you turn to -- again no page numbers -- but
4 do you see the paragraph numbers? There's a Paragraph 10, and
5 then if you turn to the very next page, there are some things
6 in bold right above Paragraph 11, do you see that?

7 A I'm sorry; no. I'm -- I lost track. Would you repeat
8 that, please?

9 Q So I went -- it's a little bit hard because there's
10 multiple -- three, four, four, six -- seven pages in, and
11 there's bold font on the top of the page, and then there's the
12 Paragraph 11 going forward. If you want, I could --

13 MS. THURMOND: If the Court, would you allow me to
14 approach to help him be on the same page?

15 THE COURT: You can.

16 (Pause)

17 A Okay; thank you.

18 Q So looking at the bold face font, are these the L&I
19 violations that were listed at the time?

20 A Yes.

21 Q So front wall deteriorated, so that would have been with
22 respect to the front of the property?

23 A Yes, the specific -- the three bullet points are PM307,
24 front wall bulge -- deteriorated, I'm sorry, excuse me. PM307-
25 1-8, rear wall bulge. And PM307-1-8, again, and that's

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1 referencing the rear wall fracture.

2 Q So when you talk about the rear wall, is that with respect
3 to what we've heard from Mr. Baron about the rear L or the rear
4 portion of the property?

5 A Correct.

6 Q Okay. And what was L&I seeking as part of this 2009 case?
7 Court case.

8 A We were seeking the repair of the property.

9 Q And can you turn to Exhibit City 4?

10 (Pause)

11 Q Are you there?

12 A Yes.

13 Q Are you familiar with this document?

14 A Yes.

15 Q Can you tell the Court what this document is?

16 A It's a court order that was issued on February 24th of
17 2011 during a court case that was -- that was heard for 1601
18 Mount Vernon.

19 Q Were there certain things that, pursuant to this court
20 order, the Santiagos were to do with respect to the property?

21 A Yes.

22 Q And what were those?

23 A On the bottom of the court order, Bullet Point Number 1,
24 on or before April 8th, 2011, the defendants shall complete all
25 work necessary to repair roof, stabilize exterior walls, close

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1 all window openings, and repair the interior flooring systems.
2 The next page has a series of other bullet points that need to
3 be done in accordance with this court order that was issued.

4 Q Do you know subsequent to this February, 2011 order
5 whether that work was done?

6 A Under the terms of the permit, there was some work that
7 was done, but not completed.

8 Q Can you turn to Exhibit City 5?

9 A Yes.

10 Q Do you know what the final resolution of the 2009 court
11 case was?

12 A 2009, there was a order that was issued pursuant to that
13 case. There was a order that was issued for a fine, issued to
14 the owner of 1601 Mount Vernon.

15 Q And when you say the owner, you mean Mr. and Mrs.
16 Santiago?

17 A Correct.

18 Q And what was the amount of that fine?

19 A That fine is issued at \$100,000.

20 Q Okay. Do you know whether that \$100,000 has been paid to
21 L&I?

22 A Not that I'm aware of.

23 Q Okay. Can you turn to City Exhibit 6, please?

24 A Yes.

25 Q Are you familiar with this document?

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1 A Yes.

2 Q Can you tell what this -- the Court what this document is?

3 A This is another court order issued to the owners for -- of
4 1601 Mount Vernon, a Mr. and Mrs. Santiago, spelling out
5 repairs or work that needs to be done to the property.

6 Q And what were the violations of the property -- were there
7 violations issued by L&I at the time of this complaint?

8 A Yes.

9 Q And what were those violations?

10 MR. SCHOLL: Well, Your Honor, he's just reading the
11 orders, I don't see this as helpful. He wasn't even employed
12 by the -- at that time. He said he's only employed for three
13 and a half years. He's -- he's just running through the
14 orders. I mean if they want to put on orders, I suppose they
15 can get them in maybe somehow, but I don't think through this
16 witness.

17 MS. THURMOND: I mean I think he's a custodian of
18 records for L&I, I mean he said that he reviewed the L&I case
19 file at the time he took over the case in 2016.

20 THE COURT: I don't think he said anything of the
21 sort. He didn't say he was the custodian.

22 THE COURT: He did say he reviewed the records, but
23 let's establish --

24 MR. SCHOLL: Yeah.

25 THE COURT: -- whether he's the custodian of the

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1 records, Ms. Thurmond.

2 MS. THURMOND: I'm -- I'm sorry, Your Honor.

3 THE COURT: Let's establish whether he's the
4 custodian of records for L&I.

5 BY MS. THURMOND:

6 Q Mr. -- are you -- in preparation -- when you took over
7 this case in 2016 with respect to this property, did you review
8 the records of L&I?

9 A Yes, before we brought the equity court case in 2016 to
10 file, I have -- I have reviewed and also looked at all the
11 records referring to 1601 Mount Vernon.

12 Q And does L&I keep files, either in paper or electronic,
13 with respect to certain properties?

14 A Yes.

15 Q And are those -- are you aware of how those files are kept
16 by L&I?

17 A Yes, we have them in paper and electronic filing for
18 multiple properties.

19 Q And are those paper and electronic files kept in the
20 ordinary course of L&I's business?

21 A Yes.

22 Q And is it the regular practice of L&I to maintain records
23 with respect to properties and enforcement actions?

24 A Correct.

25 Q And so you reviewed the entire enforcement file with

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1 respect to this property when you took over the case in 2016?

2 A Yes.

3 MS. THURMOND: May I proceed, Your Honor?

4 MR. SCHOLL: Well, she hasn't established he's the
5 custodian of records. All she's established is that L&I had
6 records, not that he would have any particular custodial --

7 THE COURT: Her last question was had he taken over
8 this case, I believe that establishes him as the custodian of
9 these records.

10 MR. SCHOLL: I'm not -- I'm not sure it does, Your
11 Honor, he's not a custodian.

12 THE COURT: Well, tell me why not.

13 MR. SCHOLL: Just because he took over the case, that
14 doesn't say that he's the custodian of the records.

15 THE COURT: How would you establish it, Mr. Scholl?

16 MR. SCHOLL: I -- I'd get somebody in here who is a
17 records custodian, that's how I'd do it.

18 THE COURT: Nobody has records custodians anymore,
19 Mr. Scholl.

20 MR. SCHOLL: Oh, I think --

21 THE COURT: Everyone simply is assigned to their --
22 to the work that they're doing. This is his case, these are
23 his records.

24 MR. SCHOLL: I don't think they're his records.

25 MS. THURMOND: Does --

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1 MR. SCHOLL: Somebody's records.

2 MS. THURMOND: Does Mr. Scholl want to stipulate to -
3 - I mean the -- the State Court complaints and the orders that
4 are issued? Then we can move it along and I wouldn't haven't
5 to go through those with the --

6 THE COURT: Mr. Scholl?

7 MR. SCHOLL: Yeah, I probably would, yes.

8 THE COURT: Well, will you or won't you?

9 MR. SCHOLL: I will.

10 THE COURT: All right.

11 MR. SCHOLL: They're orders.

12 THE COURT: Let's get on with it.

13 MS. THURMOND: Okay. So then I would just ask for
14 City Exhibit 6, which is the 2012 complaints;

15 City Exhibit 7, which is the court order -- praecipe
16 to enter judgment as of January 22nd, 2003 -- or 2013;

17 The City Exhibit 8, which is a November 2nd, 2012
18 order regarding the demolition of the rear L;

19 City Exhibit 9, which is the 2016 equity action by
20 the City;

21 City Exhibit 10, which is an order dated February
22 2nd, 2016. I would note for the record, I think this is a
23 typo, and it actually meant February 2nd, 2017 because it
24 refers to dates in 2017, and I don't know how that would be
25 possible if it was '16. I think it's a typo by the Court;

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1 City Exhibit 11, which is a November 13, 2017 order -
2 - April 13th, 2017 order, I'm not sure if I said that
3 correctly;

4 And City Exhibit 22, which is a November 1st, 2012
5 order.

6 With that, I'll move on to another topic.

7 BY MS. THURMOND:

8 Q Did there come a time when the City had to take immediate
9 enforcement action with respect to a portion of the property?

10 A Yes, in 2012, the rear section of the property was torn
11 down following a collapse of the side wall onto 16th Street.

12 Q And who -- when you say it was torn down, who tore it
13 down?

14 A The City's subcontractors appointed by L&I.

15 Q So an agent on behalf of L&I tore it down.

16 A Correct.

17 Q Okay. And why was it necessary for that to happen?

18 A Because the property was --

19 MR. SCHOLL: Well, again, Your Honor --

20 Q -- deemed eminently (sic) dangerous.

21 MR. SCHOLL: -- he's talking about -- now these are
22 not records. He's just talking about their actions and, again,
23 it's well before he was even hired.

24 MS. THURMOND: I can move on.

25 THE COURT: Okay.

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1 BY MS. THURMOND:

2 Q Mr. Baron -- or -- can you go back to Exhibit City 2 for
3 me?

4 MR. SCHOLL: What was that?

5 MS. THURMOND: Exhibit City 2.

6 MR. SCHOLL: 2, okay.

7 Q These were the photographs that you said you took on April
8 26th, 2018?

9 A Yes.

10 Q Was that the last time you visited the property?

11 A That's the last time I was at the property.

12 Q Was this the first time you were at the property?

13 A No.

14 Q How many times have you visited the property?

15 A Actually walking the property, this was the last time
16 walking the property. Actually seeing the property, I see it
17 almost on a -- if not daily, every other day because we drive
18 by it all the time on 16th Street.

19 Q So in the course of your going out per your duties for L&I
20 for other properties, you drive by.

21 A Correct.

22 Q What is the current classification of this property by
23 L&I?

24 A The current designation of the property is unsafe.

25 Q Why has this property been designated unsafe by L&I?

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1 A The property's been designated unsafe for the front and
2 side wall, the deterioration of the bricks.

3 Q Okay. Since none of us are L&I experts except for you,
4 can you explain to the Court what you mean by deterioration of
5 bricks?

6 A The deterioration of the bricks are that the -- it could
7 also be classified as de-lamination. What happens is the
8 bricks -- the glazing on the front of the bricks actually
9 deteriorates off of the -- off of the bricks themselves. What
10 happens is over time, as water penetrates into the property,
11 and it isn't maintained, the mortar will actually start to pull
12 away, water comes in behind the mortar, and penetrates through
13 the brick. Over time, it freezes or it expands, and it will
14 actually break off portions of these bricks. And over time, if
15 they're not maintained, de-lamination happens where the bricks
16 actually break off and allow more water to penetrate into the
17 structure.

18 Q And why is water penetrating into the structure a problem?

19 A Water's penetrating into the property because of lack of
20 maintenance of the property.

21 Q I know, but why is the presence of water penetrating the -
22 - into the bricks a problem?

23 A Because any time water penetrates into a structure, it
24 causes rot, deterioration, it causes a location to deteriorate
25 over time.

Rybakowski - Direct

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1 Q All right. Can you turn to the second page of the photos?
2 And correct my wrong (sic), but what we're looking at is like a
3 snapshot or close up of a place of the bricks between two
4 windows, is that correct?

5 A Yes.

6 Q And can you explain what's going on in this section of the
7 brick?

8 A It's a classic illustration of what de-lamination is.

9 It's where the mortar is actually pulled away from the
10 structure, allowing water to penetrate in between these bricks,
11 and causing the scaling or the glazing of the bricks to
12 actually break off.

13 Q And also if you go to the third page of the photos, is
14 this also -- and we are seeing a portion that's on the side of
15 the two windows, is this also an area where there potentially
16 can be de-lamination?

17 A Yes, it is another sign of de-lamination. It is the top
18 portion of the property between the second and third floor on
19 the left-hand side of the location.

20 Q And then if you could turn -- one, two, three, four, five,
21 six, seven, eight, -- nine pages in, which is a view of the
22 side of the building towards North 16th Street, and it has a
23 picture of the utility pole.

24 (Pause)

25 Q Let me know when you're there.

Rybakowski - Direct

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1 A Yes.

2 Q Okay. Is -- are the windows missing from this side of
3 the property?

4 A Yes, the second story rectangular, and then up at the roof
5 line, the arch window is missing, as well.

6 Q Okay. And then if you can go to the next page, it shows
7 the back -- the rear part of the building.

8 A Yes.

9 Q What's going on at the -- on the rear of the building?

10 A The rear of the property, it shows -- or this picture
11 shows that the -- there was a temporary wall that was
12 constructed. When the known L was removed or demolished off
13 the property, a temporary wall was installed. This wall -- it
14 shows that an installation of Tyvek, which is a weatherproof
15 membrane was adhered to the wall.

16 Q All right. So who did that installation?

17 A The City did.

18 Q And then if you go one, two, three, four -- five pages in,
19 are these, this page and the following pages, pictures of the
20 interior of the building?

21 MR. SCHOLL: What picture is that? I can't follow
22 this.

23 MS. THURMOND: Mr. Scholl, maybe I can help you get
24 on the right page.

25 MR. SCHOLL: Sure.

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1 (Pause)

2 BY MS. THURMOND:

3 Q Are these pictures of the interior of the building?

4 A Yes, it's -- where it starts with the picture of the
5 spotlight or the floodlight?

6 Q Yes.

7 A Yes. Then it's the interior -- specifically the basement.

8 Q Okay. And why was it important to L&I to inspect the
9 basement of the property?

10 A Well, we gained access to the property, I gained and made
11 my way through the basement and first floor, and up through the
12 -- an extension ladder to the second floor, only could get to
13 the second floor floor joist systems, after that, I didn't feel
14 safe enough to go any further into the property.

15 Q So is there no stairwell that goes from the first floor to
16 the second floor?

17 A There's no staircase, no.

18 Q Are you aware the petition to -- actually it's two
19 petitions to appoint a conservator with respect to this
20 property?

21 A Yes.

22 Q And you're aware generally of the conservatorship action?

23 A Yes.

24 Q What is L&I's position as to the appointment of the
25 conservator with respect to the property?

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1 A Whether an appointed conservator, or the owner, L&I's
2 position is we would just want to see the property repaired and
3 brought back to a safe condition.

4 Q Do you know what is needed to be done at this point to
5 bring the property from an unsafe condition to safe condition?

6 A At this point, we would ask for a design professional or
7 an engineer to describe how the front and side walls would need
8 to be constructed or repaired due to the amount of de-
9 lamination that's occurred at the location.

10 MS. THURMOND: I have no further questions at this
11 time.

12 THE COURT: Ms. Bloom?

13 MS. BLOOM: May I?

14 THE COURT: Um-hum.

15 CROSS-EXAMINATION

16 BY MS. BLOOM:

17 Q Good afternoon, Mr. Rybakowski, I only have a few
18 questions for you. My first question is when looking through
19 and reviewing the records from the various cases that L&I has
20 in its position -- or, excuse me, in its possession, are you
21 aware of the total fines, judgments, and other charges that the
22 City of Philadelphia currently has that are attached to or
23 otherwise relate to the property?

24 A Yes.

25 Q And what is that total?

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1 A It's approximate -- it's a little over \$300,000.

2 Q Thank you. And my other question is in your opinion, also
3 having reviewed the file that L&I has in its possession, does
4 L&I have an opinion or, I suppose do you have an opinion, of
5 whether the current owner or a third party, such as a
6 conservator, would be in a better position to abate the unsafe
7 conditions of the property?

8 MR. SCHOLL: Objection; I don't see how he could
9 answer that.

10 MS. BLOOM: Your Honor, this goes to his
11 understanding as a representative of L&I.

12 THE COURT: He's hardly an expert on what an
13 unappointed conservator can do versus what these people can do.
14 It's just a nonsensical question, Ms. Bloom.

15 You can -- I'll let you ask it, but I ain't gonna pay
16 any attention to the answer.

17 MS. BLOOM: All right; I withdrawal the question.

18 THE COURT: Cool.

19 MS. BLOOM: Thank you.

20 THE COURT: Thank you. Cross?

21 CROSS-EXAMINATION

22 BY MR. SCHOLL:

23 Q Sir, are you -- you're aware that at -- when the walls --
24 some of the walls were torn down, that the owner wanted to have
25 all of the walls torn down? You're -- are you aware of that?

1 A I know of a demolition permit that was applied for to the
2 Department of License & Inspections.

3 Q All right. But isn't it true -- maybe you don't know --
4 that the owners of the building wanted to have all the walls
5 torn down, the entire building torn down? Are you aware of
6 that? I mean if you're not, then okay.

7 A What time frame are we talking about, sir?

8 Q When that was done in 2012, when you took down the part of
9 -- not you, but some City contractors took down part of the
10 walls --

11 MS. THURMOND: Can we just ask that Mr. Santiago keep
12 his comments to himself --

13 MR. SANTIAGO: Sorry.

14 MS. THURMOND: -- because it is distracting.

15 THE COURT: You really have to stop talking, both of
16 you, okay? If you need to talk to Mr. Scholl, we'll take a
17 break and let you do that, that's fine.

18 MR. SANTIAGO: Okay.

19 THE COURT: But I need you not to be speaking out in
20 court, okay?

21 MS. THURMOND: And may I ask that -- I believe that
22 this is Mr. Santiago, the son, and is not the property owner
23 for this -- not the other -- the husband.

24 MR. SANTIAGO: But I have the power of attorney.

25 MR. SCHOLL: Right. Whether you have the power of

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1 attorney or not, doesn't matter.

2 THE COURT: Sir, I'll put you out if you don't stop
3 talking.

4 MR. SANTIAGO: Okay, all right. I just wanted to
5 clarify what was --

6 MR. SCHOLL: He is --

7 THE COURT: You're still talking.

8 MR. SCHOLL: He is Miguel Santiago, Junior.

9 THE COURT: And that's all fine, but he needs to stop
10 talking, Mr. Scholl, okay?

11 MR. SCHOLL: The talking is not the appropriate way,
12 no matter who he is.

13 But just to explain who he is, because I think she
14 was really trying to find out. He is the only son of the
15 Santiago, and he really is the one who has been doing all of
16 the prepare and planning for the building for some time.

17 MS. THURMOND: I mean my point is just that I want
18 the talking to stop so I can hear what's going on, that's my
19 only point.

20 MR. SCHOLL: Good point. Good point.

21 THE COURT: It's also disturbing me.

22 MR. SANTIAGO: Okay.

23 THE COURT: And you don't want me disturbed. You
24 want me listening.

25 MR. SANTIAGO: I got it.

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1 THE COURT: Very good.

2 BY MR. SCHOLL:

3 Q I had asked you something about not -- knocking all the
4 walls down, do you know anything about whether --

5 A I do know that there was a court case that was done in
6 2012 where a court order was issued for the City to go ahead
7 and, with the assistance of their subcontractors, to demolish
8 the rear portion of the property.

9 Q All right. You don't know whether there was any
10 discussion about knocking down any of the other walls.

11 A Whether that was part of the court case or not, I can't
12 say whether --

13 Q All right, okay. Fair enough. Do you -- do you -- also,
14 do you know whether the City took any action against the
15 Santiagos in Bankruptcy Court in 2000 -- from any time from
16 2014 to 2016?

17 THE COURT: Mr. Scholl, you're the one who's already
18 objected to his testifying to anything before he was employed
19 in 2016.

20 MR. SCHOLL: All right. I mentioned 2014 --

21 THE COURT: So you can ask him about 2016 up.

22 Q Well, from -- they didn't file the bankruptcy until 2014.
23 When is it that you began working for L&I?

24 A 2014.

25 Q Do you know the exact time in 2014?

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1 A I was in -- I started my employment with L&I in October of
2 2014.

3 Q Okay. Was there any action taken by L&I in the Bankruptcy
4 Court after October, 2014 --

5 MS. THURMOND: Objection, Your Honor.

6 Q -- until the case was dismissed in 2016 --

7 THE COURT: Wait.

8 Q -- actually dismissed in 2017?

9 THE COURT: Your objection, Ms. Thurmond? You don't
10 answer until I hear from Ms. Thurmond.

11 MS. THURMOND: My objection is -- I mean he's an L&I
12 witness, he's not an expert in the bankruptcy case and what
13 happened, he was not employed by the City to review the
14 bankruptcy case or to have a role in the bankruptcy.

15 THE COURT: It's still just a question of -- you can
16 certainly make the point on your cross-examination that that's
17 not his area of expertise, nor would he be likely to know
18 anything about it. But there's nothing wrong with the
19 question, Ms. Thurmond.

20 MS. THURMOND: Very good, Your Honor.

21 THE WITNESS: Sorry; repeat --

22 Q Can you answer?

23 A I'm sorry; repeat your answer.

24 Q Was there any action taken by the City in the Bankruptcy
25 Court regarding this property from October of 2014 when you

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1 started, until 2017 when the case was dismissed?

2 A I do know that there was a bankruptcy filing, but I don't
3 know the terms.

4 Q Okay, all right, thank you.

5 MR. SCHOLL: I don't have any other questions, Your
6 Honor, thank you.

7 THE COURT: Redirect?

8 MS. THURMOND: Yes, Your Honor, briefly.

9 REDIRECT EXAMINATION

10 BY MS. THURMOND:

11 Q Were you involved -- do you handle bankruptcy matters for
12 the City of Philadelphia?

13 A No.

14 Q Do you represent L&I with --

15 MS. THURMOND: Strike that.

16 Q In 2015, were there violations that L&I issued with
17 respect to the property?

18 A Yes.

19 Q And that would have been between 2014 and 2017 when the
20 bankruptcy was taking place?

21 A Yes.

22 Q And in 2016, was there equity action commenced against the
23 Santiagos in State Court?

24 A Yes.

25 MS. THURMOND: No further questions.

1 MS. BLOOM: No questions, Your Honor.

2 THE COURT: Anything else?

3 MR. SCHOLL: I don't have anything further.

4 THE COURT: You may step down.

5 MR. RYBAKOWSKI: Thank you.

6 THE COURT: Thank you.

7 (Pause)

8 THE COURT: Okay.

9 MS. THURMOND: My last witness, Matthew Burton
10 (phonetic), who is a tax analyst with the Department of
11 Revenue. My only purpose for calling him, Your Honor, is to
12 essentially read in the numbers from the City's proof of claim,
13 but perhaps Mr. Scholl wants to either stipulate not to -- he --
14 -- I mean obviously they can dispute the City's proof of claim
15 at some point down the road, but just that they are filed of
16 record with the numbers that they are.

17 MR. SCHOLL: There's a claim filed of record, and I
18 think we can take notice of what it says.

19 MS. THURMOND: Okay; very good. So --

20 THE COURT: You can sit down.

21 MS. THURMOND: I think -- I took away your moment in
22 the spotlight.

23 (Laughter)

24 MS. THURMOND: Just for the record, this is
25 Exhibit City 23, which is a claim filed by the Water Revenue

1 Bureau;

2 City 24, which is a claim filed by the Water Revenue

3 Bureau;

4 And City 25, which is a claim filed by the City of
5 Philadelphia for taxes and other debt, including L&I debt, and
6 judgments.

7 MR. SCHOLL: They've all been filed, Your Honor, I've
8 seen them.

9 THE COURT: Okay; all right.

10 MS. THURMOND: At this point, the City would like to
11 call Mrs. Santiago as on cross.

12 THE COURT: All right. Mr. Santiago --

13 MR. SANTIAGO: Me?

14 MS. THURMOND: No, Mrs. Santiago.

15 THE COURT: Oh, Mrs. Santiago. Mrs. Santiago, will
16 you come up here and be sworn, please.

17 MS. THURMOND: Mrs. Santiago, will you take the
18 witness stand?

19 MR. SCHOLL: She's called you, Mrs. Santiago.

20 MS. THURMOND: May I ask that Mr. Santiago please
21 stop talking?

22 MR. SANTIAGO: I was just helping my mother where to
23 go.

24 THE COURT: I --

25 MR. SCHOLL: Okay, she found it.

1 THE COURT: Okay. It's all right.

2 MR. SCHOLL: Thank you.

3 THE COURT: There are other people who can do that
4 for her, you just need to sit back.

5 MR. SANTIAGO: I'm sitting.

6 (Pause)

7 MRS. SANTIAGO: I need somebody -- I need somebody
8 speaks Spanish, you, okay, my son. I need my on to be here.

9 MS. THURMOND: No, Your --

10 THE COURT: You can't have him here.

11 MS. THURMOND: Mrs. Santiago, you need to listen to
12 my questions.

13 MR. SANTIAGO: She needs an interpreter. Is that
14 what you need?

15 MRS. SANTIAGO: Yeah, can you talk? Can you be
16 interpreter in Spanish?

17 MR. SCHOLL: Well, if they'll stipulate to it, I -- I
18 wouldn't mind --

19 MS. THURMOND: No, Your --

20 THE COURT: If they'll stipulate to what, Mr. Scholl?

21 MR. SCHOLL: Uh --

22 THE COURT: I don't have an authorized --

23 MR. SCHOLL: Well, it's a question -- I don't know
24 who she's asking the question to.

25 THE COURT: I can't have any unauthorized

1 interpreters. If there's an interpreter, it has to be an
2 authorized interpreter. If she needs an interpreter, you
3 should have brought one.

4 MS. THURMOND: I have --

5 MR. SCHOLL: I didn't plan to call her as a witness,
6 Your Honor.

7 THE COURT: It doesn't --

8 MS. THURMOND: I --

9 THE COURT: Mr. Scholl, what did you expect was going
10 to happen today?

11 MR. SCHOLL: I did not expect that they would call
12 Mrs. Santiago.

13 THE COURT: Why would you not expect that since she's
14 the property owner?

15 MR. SCHOLL: Because I don't think --

16 THE COURT: I was expecting to hear from her.

17 MR. SCHOLL: -- there's any evidence that they're
18 going to be able to adduce from her, but that's their case. I
19 mean I'm not their lawyer.

20 MS. THURMOND: Your Honor --

21 MR. SCHOLL: I don't know why they'd call her.

22 MS. THURMOND: I don't want to speak --

23 THE COURT: All right.

24 MRS. SANTIAGO: My problem is --

25 THE COURT: Let me be very --

1 MRS. SANTIAGO: My problem is that I'm --

2 THE COURT: -- clear --

3 MRS. SANTIAGO: My problem is that I don't understand
4 what she gonna say, what she gonna say to me. My son, he can
5 say what she said to me in Spanish.

6 THE COURT: He can't do that, ma'am.

7 MS. SANTIAGO: Oh.

8 THE COURT: It's not legal.

9 MS. SANTIAGO: Oh.

10 THE COURT: We have to have an official interpreter
11 if you want an interpreter.

12 MS. SANTIAGO: Okay.

13 MS. THURMOND: Your Honor, I may -- I just want to
14 state for the record that I did --

15 MS. SANTIAGO: Can I say what is -- what I can do?

16 THE COURT: Mrs. Santiago, you need to stop talking,
17 wait for a moment, let us all figure this out, okay? Then
18 we'll --

19 MS. THURMOND: Um --

20 THE COURT: Then we'll talk to you.

21 MS. THURMOND: I'm sorry, Your Honor. I did call Mr.
22 Scholl last week because I did hear that Mrs. Santiago would
23 need a Spanish speaker, and I was concerned about that
24 interpreter issue. I did actually even have a conversation
25 Ms. Ranieri, and she provided me with a list of the -- actually

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1 Linda from Judge Coleman's office provided me with a list of
2 people, and then I called Mr. Scholl and I said does your
3 client need an interpreter? And he said, no. So I did not go
4 forward with making arrangements for an interpreter because I
5 didn't want to make arrangements if it was not necessary.

6 So I will come to the microphone so Mrs. Santiago can
7 hear me more clearly, and we'll do the best we can.

8 THE COURT: Okay.

9 NORIS SANTIAGO, MOVANT'S WITNESS, SWORN

10 ELECTRONIC COURT RECORDER: State your name, spell
11 your last name, and give your address.

12 THE WITNESS: My name is Noris Santiago, it's N O R I
13 S S A N T I A G O.

14 THE COURT: And your address, Mrs. Santiago.

15 THE WITNESS: 7719 Fairfield, Philadelphia,
16 Pennsylvania 19152.

17 THE COURT: Your witness, Ms. Thurmond.

18 MS. THURMOND: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. THURMOND:

21 Q Mrs. Santiago, my name is Pamela Thurmond, I'm a lawyer
22 for the City of Philadelphia in this bankruptcy proceeding. If
23 you can't hear me at any time during my questioning, will you
24 just let me know?

25 A Okay. I can hear you, but sometime I can't understand

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1 what you want to -- what do you say to me.

2 Q Okay, that's fair. So I would just ask if you could hear
3 my question, but if you need clarification or perhaps you need
4 me to reword it another way, can you just let me know, and I'd
5 be happy to clarify my question and reword it.

6 A (No verbal response).

7 Q Can we agree on that, ma'am?

8 A Say it again?

9 Q Can we agree that if you need clarification of my
10 question, or you need me to ask the question again, you'll let
11 me know?

12 A Okay.

13 Q Okay. Mrs. Santiago, are you aware there was a
14 conservatorship petition filed with respect to your property at
15 1601 Mount Vernon Street?

16 A Say it again.

17 Q Are you aware there was a conservatorship petition -- let
18 me back up. Do you own the property at 1601 Mount Vernon
19 Street?

20 A Yes.

21 Q You do own the property?

22 A Um-hum.

23 Q Do you own the property with anyone else?

24 A My husband.

25 Q Okay. And your husband, is he still alive?

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1 A He is still alive, but he's very sick.

2 Q Okay. I'm going to refer to 1601 Mount Vernon as the
3 property, is that okay with you?

4 A Say it again.

5 Q When -- I'm going to refer to 1601 Mount Vernon Street as
6 just the property, is that okay with you?

7 A No, the property, I don't know what that word means.

8 Q The property. I'm going to call 1601 Mount Vernon Street
9 the property, is that okay with you?

10 A I don't know --

11 Q It's kind of like a shorthand --

12 A I can't understand what you're saying.

13 Q Okay. Do you know if anyone ever asked to be appointed as
14 conservator of 1601 Mount Vernon Street?

15 A No.

16 Q You're not aware?

17 A No.

18 Q Okay. Did you know if there was a State Court hearing on
19 April 18th?

20 A No.

21 Q No, you weren't aware?

22 A No.

23 Q Did you go to a hearing at Philadelphia City Hall on April
24 18th?

25 A Um, I went to (indiscernible - reverberation) remember

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1 what's that (indiscernible - reverberation) the date.

2 Q Okay. Was -- when you went, did you go recently?

3 A No, they didn't let me say nothing. I didn't talk that
4 time.

5 Q When you say they don't let you say --

6 A When they ask me for nothing.

7 Q Okay. And so who's the they in that sentence? Do you
8 mean the other lawyers or the court?

9 A It was the court.

10 Q Okay. So the court didn't ask you to speak at that time?

11 A No.

12 Q Do you know if --

13 A (Indiscernible - reverberation) speak nothing.

14 Q Do you know if that was --

15 A Every time I come (indiscernible - reverberation) me talk.

16 Q Okay. Do you know if that hearing where you were present,
17 was that on April 18th, or was that a different day?

18 MR. SCHOLL: Better give her the year, she might --

19 MS. THURMOND: Oh, I'm sorry; that's fair.

20 Q Do you know if that was on April 18th of 2018? So this
21 just last month? Or was that on a different day?

22 A It was different day.

23 Q Okay, it was a different day. So did you go to
24 Philadelphia City Hall for court last month, in April of 2018?

25 A Oh, April the -- this year?

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1 Q This year, yes.

2 A No.

3 Q Okay. Why did you file this bankruptcy case?

4 A Because I want to save my property. I want to save my
5 property (indiscernible - reverberation) I don't
6 (indiscernible - reverberation) my property.

7 Q Okay. So when you say --

8 A Everything -- everything they say here is the lies. Lies.

9 Q Okay, ma'am --

10 THE COURT: I'm going to ask you to leave. You don't
11 sit there and shake your head. You're going to leave the room
12 now. Now.

13 MR. SANTIAGO: Okay.

14 THE COURT: We'll have you back in here when your
15 mother's finished.

16 (Pause)

17 THE WITNESS: I bring him because he is -- he --

18 MS. THURMOND: Ma'am, there's no pending question.
19 Please wait for my next question. Thank you.

20 THE COURT: Mr. Scholl, if you can't control --

21 MR. SCHOLL: He's going to leave, I think.

22 THE COURT: If you can't control your witnesses, we
23 have a serious issue.

24 MR. SCHOLL: Well, you asked him to leave. I think
25 he's going to leave.

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1 THE WITNESS: But I think he's talking --

2 MS. THURMOND: Ma'am --

3 THE WITNESS: -- but I don't know (indiscernible -
4 reverberation) --

5 MS. THURMOND: Ma'am, please wait for my question.

6 THE WITNESS: Okay.

7 BY MS. THURMOND:

8 Q I -- when I'm ready -- I was waiting for the -- for
9 everyone to be situated again. When you were just speaking
10 with me again, you said you filed bankruptcy to save my
11 property. What property are you speaking of? What's the
12 address?

13 A Seven -- 1601 Mount Vernon.

14 Q 1601 Mount Vernon. Did you file bankruptcy to prevent the
15 appointment of a conservator with respect to 1601 Mount Vernon?

16 A Yes, because they want to take my property away from me.

17 Q Okay, thank you, ma'am. Did you file schedules in this
18 bankruptcy case?

19 A Say it again.

20 Q Did you file what's called schedules in this bankruptcy
21 case?

22 A (No verbal response).

23 Q Let me -- let me show you something, ma'am. In the binder
24 that's in front of you, the black and white binder, there are
25 documents and they have exhibit tabs on the side. Can you turn

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1 to Number 17? And if you need help, and you want me to show
2 it to you, or for Mr. Scholl to show which one it is, I'm happy
3 to help you, okay?

4 A 17?

5 Q Yes, ma'am.

6 A Why would -- I don't intend nothing --

7 Q Ma'am, please --

8 A You have to (indiscernible - reverberation).

9 Q Please wait for my question. Do you need help finding
10 Number 17?

11 A (No verbal response).

12 Q Do you want met to come help you find Number 17, ma'am?

13 A I have 17.

14 Q Okay.

15 A It's nothing in 17.

16 MS. THURMOND: May I approach, Your Honor.

17 A It's blank. It's a blank.

18 (Pause)

19 Q It's right here.

20 A This is 18, not 17.

21 Q Yeah, City 17, this is just a --

22 A I thought you -- oh --

23 Q Yeah, sorry. It's a little bit hard (indiscernible - not
24 at microphone). Okay. Do you -- do you recognize this
25 document, Exhibit --

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1 A No. No.

2 Q If I tell you this is the Schedule A/B of property that
3 was filed in this current bankruptcy case --

4 A I don't want to talk nothing. I don't know what you're
5 saying.

6 Q Okay. Let me back up again.

7 A I don't know. I don't want to talk nothing.

8 THE COURT: It's not an option, madam.

9 THE WITNESS: Yeah, but --

10 THE COURT: You will answer questions. If you don't
11 know the answer, you can tell her you don't know the answer.

12 THE WITNESS: Okay, Your Honor.

13 THE COURT: But you will answer any question that is
14 put to you, do you understand?

15 THE WITNESS: Yeah, I under --

16 THE COURT: Unless Mr. Scholl objects.

17 THE WITNESS: Yeah, but I don't know what she's
18 saying.

19 THE COURT: She -- she will repeat it. She'll change
20 the words, she'll do what it takes.

21 THE WITNESS: Yeah, I don't know what she said to
22 know to speak to her back to saying.

23 Q Okay. Mrs. Santiago, perhaps I can ask another question,
24 and maybe I can clarify this for you. Have you seen this
25 document before? These pages that are part of City 17?

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1 A (No verbal response).

2 Q Have you seen these pages before?

3 A No.

4 Q Did you provide information to Mr. Scholl about the
5 property you own as part of the bankruptcy case?

6 A Say it again.

7 Q Did you provide to Mr. Scholl or his office information
8 about the properties you own?

9 A No.

10 Q You never provided any information to Mr. Scholl about the
11 properties you own?

12 A I don't know what you're saying. I don't -- I don't want
13 -- I can't answer. I don't know what you're saying.

14 Q Okay. So I guess your answer is you're having trouble
15 understanding my question. Mr. Scholl is your attorney in this
16 bankruptcy case, is that correct?

17 A Yes.

18 Q In addition to -- do you -- in addition to 1601 Mount
19 Vernon, do you own any other property in the City of
20 Philadelphia?

21 A Yes.

22 Q Okay.

23 A My house.

24 Q Okay. Can you tell me the addresses of those properties?

25 A 7719 Fairfield.

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1 Q It's 7719 Fairfield Street?

2 A Fairfield.

3 Q Fairfield Street, okay. Anything else?

4 A That's it.

5 Q Okay. And how do you own 7719 Fairfield Street? Do you
6 own it by yourself, or do you own it with someone else?

7 A My husband and I.

8 Q Okay. Your husband and I -- your husband and yourself own
9 it together.

10 A Yes, he's sick.

11 Q Okay.

12 A Very sick in the house.

13 Q Do you own a property at 3164 North 6th Street?

14 A He does the cleaner where my son works.

15 Q Okay. So there's a dry cleaner at --

16 A Yeah. Yes.

17 Q Do you own that property that the dry --

18 A (Indiscernible - reverberation) not now, my son has it.

19 Q Okay. So you used to own it, but your son now owns it, is
20 that correct?

21 A Yes.

22 Q Okay. Does he own the dry cleaner, as well, or just the
23 property?

24 A The property.

25 Q Okay.

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1 A And the cleaner.

2 Q And the dry clear? Okay. What about -- do you own any
3 property at 3900 North 9th Street in Philadelphia?

4 A Yes.

5 Q Okay. And what's at that location?

6 A It's where like, you know, little clear that we call it
7 (indiscernible).

8 Q I'm sorry, ma'am, can you repeat your question -- or your
9 answer, I'm sorry.

10 A (Indiscernible - reverberation) you know, to -- very close
11 to the other cleaner.

12 Q So I heard it's a little location. Is there a building at
13 that location?

14 A Yes, a -- a building, yeah.

15 Q Okay. Is it a house?

16 A It's a house, yes.

17 Q Okay. Does someone live in the house?

18 A Nobody live there.

19 Q So it's vacant.

20 A Yes, it's close.

21 Q Okay. Going back to the property at 7719 Fairfield
22 Street, which you said is your home.

23 A Yes.

24 Q Do you know what that property is worth?

25 A No.

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1 Q Okay. What about the property at 1601 Mount Vernon
2 Street?

3 A Say it again.

4 Q Sure. The property at 1601 Mount Vernon Street, which is
5 the property that we're speaking of in this case, do you know
6 what that property is worth?

7 A Oh, yeah, it cost a lot of money that is worth than my
8 house.

9 Q Okay. So I hear you saying it's worth more than your
10 house, but --

11 A Correct.

12 Q -- do you know what number that it's worth?

13 A No, I can't say the number.

14 Q Okay. What about the property at 41 -- so you said the
15 property at 31 North 6th Street is owned by your son. What
16 about the property at 3900 North 9th Street?

17 A It's not worth nothing. Peanuts.

18 Q Okay. So do you have any idea of a number?

19 A No, 25,000.

20 Q Okay. Can you turn to Exhibit 18 in the book? Do you
21 want me to come up and show you where it is? Ma'am, would you
22 like me to come up and show you Exhibit 18?

23 A What page?

24 Q Here, I'll --

25 MS. THURMOND: May I approach, Your Honor?

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1 THE COURT: You may.

2 (Pause)

3 A Yeah, they talking about my son and they look at them --

4 Q Ma'am, I would just ask that until I have a question,
5 there's no need for you to speak.

6 A When was (indiscernible).

7 Q Ma'am, do -- you have Exhibit City 18 in front of you,
8 it's -- one, two, three -- four documents. Four pages, are you
9 there? You have the --

10 A (No verbal response).

11 Q Have you seen this document before?

12 A No.

13 Q As part of this bankruptcy case -- as part of the
14 bankruptcy case, did you provide information to Mr. Scholl
15 about your income?

16 A No.

17 Q Did you provide information to Mr. Scholl about your
18 expenses?

19 A No.

20 Q And you've never seen this document before?

21 A No.

22 Q What --

23 A My son --

24 Q What is your income?

25 A My son know everything.

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1 Q Ma'am.

2 A Yes?

3 Q Are you employed?

4 A No.

5 Q Okay. Do you have any source of income?

6 A Yes.

7 Q Okay. What is your source of income?

8 A Do I have to say this here?

9 Q Yes, unless --

10 A Why I have to say this here?

11 MS. THURMOND: Your Honor, perhaps you --

12 THE COURT: I -- I --

13 MS. THURMOND: She's asking whether she has to state
14 -- answer my question.

15 THE COURT: Yes, you have to answer the question.

16 A Five ninety -- um, five ninety-six a month.

17 Q I'm sorry.

18 THE COURT: \$596 per month?

19 THE WITNESS: Yeah, five ninety-six.

20 THE COURT: And that is income from? I'm sorry, I'm
21 going to short circuit this because we got to get out of here
22 today. Is that your Social Security?

23 THE WITNESS: Um-hum.

24 THE COURT: Do you have any other source of income
25 that you receive?

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1 THE WITNESS: No.

2 THE COURT: Nothing from the dry cleaning business?

3 THE WITNESS: No.

4 THE COURT: No other sources.

5 BY MS. THURMOND:

6 Q Did you get any -- okay. Do you currently have insurance
7 for the properties?

8 A Pardon me?

9 Q Do you have insurance for the property at 1601 Mount
10 Vernon Street?

11 A Yes.

12 Q Do you have insurance for the other properties?

13 A Yes.

14 Q Can you turn to Exhibit City 19?

15 MS. THURMOND: And I'll come -- if Your Honor will
16 allow, I'll come up and find the tab for her.

17 THE WITNESS: I didn't expect this from you, it's not
18 (indiscernible - reverberation) somebody in Spanish, English.

19 Q All right, Mrs. Santiago, have you ever seen this document
20 before?

21 A No.

22 Q Do you intend to make repair -- you can put the binder --
23 you can close the binder up and put it up so you don't have to
24 hold onto it, if that helps you.

25 THE COURT: Thank you.

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1 THE CLERK: (Indiscernible).

2 MS. THURMOND: Not with this witness.

3 Q Is your intention to make repairs to the property at 1601
4 Mount Vernon Street?

5 A Yes, that's (indiscernible - reverberation).

6 Q Okay. And do you have money currently to --

7 A (Indiscernible - reverberation) for this (indiscernible)
8 for this property.

9 Q Okay. Do you have an idea of how much it would cost to
10 make the repairs to the property?

11 A No, I have -- I'm gonna find out.

12 Q Okay. Not yet, okay. What are your sources for funding
13 repairs for the property?

14 A They ask me to make the repair (indiscernible -
15 reverberation).

16 Q Okay. Can you repeat your answer for me, Your Honor --
17 ma'am.

18 A My plan is to (indiscernible - reverberation).

19 Q Okay.

20 A And live there.

21 Q Live at 1601 Mount Vernon?

22 A Yes.

23 Q Have you sought a loan from the bank or from a bank to
24 fund the repairs to the property at 1601 Mount Vernon?

25 A Say it again?

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1 Q Have you ever sought a loan from a bank to make the
2 repairs?

3 A No.

4 Q You've never sought a loan from a bank?

5 A No, (indiscernible - reverberation). Every time I try to
6 (indiscernible - reverberation) they stop us.

7 MS. THURMOND: All right. I would ask to strike the
8 answer as being non-responsive.

9 THE COURT: Well, we don't strike things anymore.

10 MS. THURMOND: Okay. All right; very good.

11 THE COURT: Your objection is noted.

12 Q Do you know if your husband has sought a loan from the
13 bank to fix the property?

14 A Say it again?

15 Q Your husband, Mr. Santiago, do you know if he has sought a
16 loan to fix the property?

17 A No.

18 Q No, you don't know, or no, he hasn't sought a loan?

19 A No, we don't -- he don't -- he is sick, he can't
20 (indiscernible - reverberation) sick.

21 MS. THURMOND: All right. Thank you very much, Mrs.
22 Santiago, for your patience. This concludes my questions for
23 now.

24 THE COURT: Ms. Bloom, any questions?

25 MR. SCHOLL: Yes. Yes, I do, Your Honor.

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1 THE COURT: No, no, hang on.

2 MS. BLOOM: Ms. Bloom.

3 THE COURT: Ms. Bloom, let me get her taken care of
4 first. Hurry up, Ms. Bloom, we haven't got all day.

5 MR. SCHOLL: Oh, okay.

6 (Pause)

7 MS. BLOOM: Your Honor, I -- I -- I do not have -- I
8 -- I apologize, Your Honor. I -- I may have questions, but I --
9 -- if it is all the same to the Court, I would be comfortable
10 asking them in Spanish, and then -- but no? All right.

11 THE COURT: What do you people --

12 MS. BLOOM: Well, I apologize, Your Honor.

13 THE COURT: We have a machine.

14 MS. BLOOM: Yes.

15 THE COURT: Okay? The reason that we allow
16 authorized interpreters is we count on them because they're
17 sworn and everything else, to ask the questions properly.

18 You're not an authorized interpreter, so no.

19 MS. BLOOM: I am not.

20 THE COURT: Mr. Scholl won't know what you're asking
21 her, that's not fair to him either.

22 MS. BLOOM: Yes, Your Honor. In that case, I have no
23 questions; thank you.

24 THE COURT: All right. There you go. Your -- your
25 witness, Mr. Scholl.

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1 CROSS-EXAMINATION

2 BY MR. SCHOLL:

3 Q Mrs. Santiago, do you read English?

4 A No.

5 Q All right. But you do understand some English, is that
6 right? Because you're testifying today.

7 A Some (indiscernible - reverberation) I can speak
8 (indiscernible - reverberation).

9 Q All right.

10 A I can speak better some words, some thing I can understand
11 what they say.

12 Q All right. You did file a bankruptcy, though, with me as
13 your attorney, is that right?

14 A Yes.

15 Q Did you come to my house to prepare the papers to file
16 your bankruptcy?

17 A Yes.

18 Q How many times did you come to my house?

19 A Twice.

20 Q Okay. Did we go over the information on the papers with
21 you and your son?

22 A Um-hum.

23 Q And you were there, is that right?

24 A Yes, I was.

25 Q All right. Everything that we talked about, you agreed

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1 with, is that right?

2 A Correct.

3 Q All right. Now with respect to the properties that you
4 own, do you own -- are you and your husband the title owners of
5 the properties on 6th Street and 9th Street?

6 A Correct.

7 Q Okay. So both of them, is that right? So when you said
8 you didn't own it, that wasn't correct, was it?

9 A Yes, because I don't understand her.

10 Q Okay. Do you understand me, though, I guess, okay.

11 THE COURT: I'm having a little trouble with that,
12 Mr. Scholl, because you used an expression like title owners
13 and --

14 MR. SCHOLL: Well --

15 THE COURT: How she suddenly understands that, and
16 she didn't understand seeking a bank loan is beyond me. But go
17 ahead.

18 Q Well, as far as -- on the subject of a bank loan, has your
19 son tried to get bank loans?

20 A Say it again.

21 Q Is your son --

22 MS. THURMOND: Objection.

23 Q -- trying to get a loan for Mount Vernon's --

24 A Yes.

25 Q All right. And you let that in the -- the -- that your

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1 son, you let your son do that for you?

2 A Yes.

3 Q All right. You don't get involved in that, is that right?

4 A No.

5 Q All right. And as far as your income, and your property
6 ownership, we went over all that verbally, did we not?

7 A Yes.

8 Q Okay. And it was right the way I put it on the papers,
9 isn't that right?

10 MS. THURMOND: Objection, Your Honor.

11 A Correct.

12 THE COURT: Wait a minute.

13 MR. SCHOLL: As far as she knows.

14 THE COURT: I've got an objection here.

15 MR. SCHOLL: Okay.

16 MS. THURMOND: I think --

17 THE COURT: I've got an objection, too.

18 MS. THURMOND: -- Mr. Scholl is asking leading
19 questions. This is his witness.

20 MR. SCHOLL: Not my witness.

21 MS. THURMOND: I mean he -- this is the debtor, he
22 should be asking non-leading questions.

23 THE COURT: You have to ask like on direct. You
24 don't get to treat her like a hostile witness just because you
25 didn't call her, Mr. Scholl.

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1 MR. SCHOLL: I think I can ask her leading questions,
2 frankly.

3 THE COURT: No, you can't, Mr. Scholl.

4 MR. SCHOLL: And -- that's your ruling, I'll abide by
5 it.

6 THE COURT: That's my ruling.

7 MR. SCHOLL: Okay, all right.

8 THE COURT: I'm also a little disturbed at the fact
9 that every question she was asked over here, she had never seen
10 these papers before, and now she has all this recollection of
11 going over all this stuff with you. I'm having a little
12 trouble. I would like to see the signed copy of the petition,
13 Mr. Scholl.

14 MR. SCHOLL: Okay. We have a signed copy of the
15 petition.

16 THE COURT: I'm going to want to see it.

17 MR. SCHOLL: All right. You could see it.

18 I don't have any further questions.

19 REDIRECT EXAMINATION

20 BY MS. THURMOND:

21 Q Mrs. Santiago, do you need me to come -- yeah, let me come
22 to the microphone. No, no, you stay, I'll come. So when I
23 asked you previously, you said your son owned the property at
24 3164 North 6th Street.

25 A Yeah, because the -- he's the one who can understand

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1 better (indiscernible - reverberation). He knows everything
2 about the City (indiscernible - reverberation) --

3 Q Ma'am, do you own -- so now you're saying you do own the
4 property at 3164 North 6th Street.

5 A We gonna (indiscernible - reverberation) to him, the
6 property to my son.

7 Q But you haven't done that yet.

8 A Not yet. This month, yes.

9 Q Oh, so you're going to do --

10 A (Indiscernible - reverberation).

11 Q -- do it this month. You're going to transfer the
12 property to your son this month.

13 A Correct.

14 Q Which is May, 2018.

15 A (Indiscernible). Depend. I don't know.

16 Q Okay.

17 MS. THURMOND: I have no further questions.

18 MR. SCHOLL: I have no further questions, Your Honor.

19 THE COURT: You may step down, Mrs. Santiago; thank
20 you.

21 (Pause)

22 MS. THURMOND: The City would just ask for -- to move
23 in its exhibits. I can give Your Honor a list of the ones that
24 we used.

25 THE COURT: Any objection on any of the exhibits, Mr.

1 Scholl?

2 MR. SCHOLL: Well, none of the ones we discussed -- I
3 don't have any problem with them. I don't know if she's
4 offering something else.

5 THE COURT: I don't think she's planning on
6 introducing --

7 MS. THURMOND: No.

8 THE COURT: -- anything other than the ones that were
9 actually discussed.

10 MS. THURMOND: Yes, I can through the list really
11 quickly, but I'm not intending to use the ones I did not use
12 with the witness, and I will remove them from the binders at
13 the conclusion.

14 So we have Exhibit City 28, which was the 2003
15 Historical Commission letter;

16 City 27, which was the application for building
17 permits;

18 City 8, which was the State Court order;

19 City's second -- City 2, which was the photos;

20 City 3, 4, 5 through 11, which were all State Court
21 orders;

22 City 22 --

23 THE COURT: What is that noise?

24 MR. BIELLI: I lost count.

25 MS. THURMOND: I'm sorry.

1 MS. BLOOM: 5 through 11.

2 MS. THURMOND: 28, 27, 8, 2, 3, 4, 5 through 11, 22,
3 which is another State Court order;

4 23 through 25, which are the City's proofs of claim
5 in this current 2018 bankruptcy;

6 17 through 19, which 17 is the Schedule A/B; 18 is
7 the Schedule I/J; and 19 is the plan.

8 THE COURT: No objection, Mr. Scholl?

9 MR. SCHOLL: No objection.

10 THE COURT: All right. I think we need to bring Mr.
11 Santiago back in; thank you.

12 MS. THURMOND: So with that, Your Honor, that would
13 conclude the City's case in chief.

14 MRS. SANTIAGO: Your Honor, if my son can speak?

15 THE COURT: He's coming in.

16 MR. SCHOLL: He's coming in.

17 MRS. SANTIAGO: Oh, okay.

18 MR. SCHOLL: She asked to bring him back.

19 MRS. SANTIAGO: I'm sorry.

20 THE COURT: No, it's all right. It's all right.

21 (Pause)

22 MR. SCHOLL: Did I understand that the City was
23 resting?

24 (No audible response heard)

25 MR. SCHOLL: Okay. So that -- I don't think they

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1 said that.

2 THE COURT: I -- you've got to speak up, Mr. Scholl.

3 MR. SCHOLL: Okay. I don't think they said that they
4 were resting, but I guess --

5 THE COURT: She did.

6 MR. SCHOLL: Okay, all right. All right.

7 THE COURT: All right. Mr. Scholl?

8 MR. SCHOLL: Mr. Santiago, I'm glad you're back.

9 MR. SANTIAGO: Yay.

10 MR. SCHOLL: I would like to call you as a witness.

11 MR. SANTIAGO: All right.

12 MS. THURMOND: Your Honor, I would object to this
13 witness, he's not the titled owner of the property.

14 THE COURT: I don't know what he's being called as a
15 witness for, Ms. Thurmond. You can ask for a statement with
16 that regard once we get him on the stand and sworn, and we will
17 then address the issue.

18 MS. THURMOND: Okay, very good, Your Honor.

19 THE COURT: Okay?

20 (Pause)

21 MIGUEL SANTIAGO, DEBTOR'S WITNESS, SWORN

22 MS. THURMOND: I would ask for a statement with
23 regard to the purpose of Mr. Santiago's testimony.

24 THE COURT: We will. Let's get him sworn in and --

25 MS. THURMOND: Okay.

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1 THE COURT: -- and we'll --

2 MS. THURMOND: I'm sorry, Your Honor, I'm being --

3 THE COURT: We're going to have a record.

4 MS. THURMOND: -- overeager.

5 ELECTRONIC COURT RECORDER: Give your name, spell
6 your last name, and give your address.

7 THE WITNESS: Miguel Santiago, S A N T I A G O, 7719
8 Fairfield Street, Philly P A 19152.

9 ELECTRONIC COURT RECORDER: Thank you.

10 THE WITNESS: You're welcome.

11 THE COURT: Mr. Scholl, Ms. Thurmond has asked for a
12 statement with regard to the purpose of this witness.

13 MR. SCHOLL: This witness, as the son of the two
14 Santiago owners of the properties has really taken over
15 handling the business of those properties. And the reason why
16 is because both of his parents are up in years, they're over 70
17 years old, and their English is not very good. And Mr.
18 Santiago is quite capable of speaking and understanding
19 English.

20 His -- I have never met Mr. Santiago, Senior, I don't
21 know whether he is or not, but I know the mother is limited in
22 her English, and he has handled all of the affairs.

23 So I think that he's the only one who can really give
24 accurate testimony as to what the debtor has been doing with
25 respect to her property.

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1 THE COURT: Well, but the debtor is this lady sitting
2 here.

3 MR. SCHOLL: Right, we understand that.

4 THE COURT: And you did not bring an interpreter so
5 that I could have the benefit of hearing from her, and this is
6 not her, so I don't know why I would listen to him.

7 MR. SCHOLL: Well, because I think that when somebody
8 is not conversant in English, and they're up in years --

9 THE COURT: Then you have an --

10 MR. SCHOLL: -- it's quite natural that they would
11 have --

12 THE COURT: You have an -- you have an interpreter
13 for that person.

14 MR. SCHOLL: Well, you could, but I didn't anticipate
15 her being called; I didn't call her. I had no intention of
16 calling her because, frankly I don't --

17 THE COURT: Mr. Scholl, this man is remote from this
18 debtor. He may be her son, but he is not this debtor.

19 She is required to be able to tell me about her case.
20 And you're not giving me that opportunity because I'm not being
21 able to hear her speak because her English isn't good enough,
22 and you didn't bring an interpreter.

23 I'm not going to listen to someone else tell me what
24 she's supposed to be telling me.

25 MR. SCHOLL: Well, she -- he's not going to talk

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1 about the contents of the petition, or any of that. He's going
2 to talk about the property and the rehabilitation of the
3 property.

4 THE COURT: He doesn't own the property.

5 MR. SCHOLL: That doesn't mean that he couldn't be
6 doing it on his -- behalf of his mother.

7 THE COURT: He -- and she can hire whomever she
8 wants, but she's the person who's got to tell me about it.

9 MR. SCHOLL: Oh, Your Honor, I don't think that's
10 true, Your Honor. I don't think a debtor has to be able to
11 express the -- not if they're not the one doing it. If
12 somebody else is doing it on their behalf, and their authority,
13 I think that's perfectly --

14 THE COURT: If she's incompetent then she --

15 MR. SCHOLL: She's not incompetent.

16 THE COURT: Well, if she's not incompetent, then
17 she's the one that has to speak, Mr. Scholl. You're well aware
18 of the case law on this. She is the one who has to speak.
19 He's not her next friend, he's not her custodian, he's not her
20 guardian, he's not her conservator. If he were any of those
21 things, then it would be fine. But he's not.

22 I have to hear from this lady and/or her husband
23 in --

24 MR. SCHOLL: Well --

25 THE COURT: -- order for me to be able to make a

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1 determination with regard to credibility, etc. I cannot listen
2 to a third party. I don't care how close he is to him.

3 MR. SCHOLL: Your Honor, with all due respect, Your
4 Honor, I don't think you have to be incompetent to have
5 somebody else act on your behalf.

6 THE COURT: Sir --

7 MR. SCHOLL: I think this happens all the time.

8 THE COURT: Sir -- sir, you're -- you're on the
9 witness stand.

10 MR. SCHOLL: You weren't told --

11 THE WITNESS: You already told us you didn't want to
12 hear it, so --

13 MR. SCHOLL: You weren't told to leave the witness
14 stand, Mr. Santiago. Will you please go back?

15 I don't anything improper about their son being the
16 one who handled most of their business.

17 THE COURT: I -- and that's just fine. And if he
18 were an accountant, or something else, I might listen to him as
19 an expert of some sort.

20 Now you are asking me to listen to him instead of the
21 debtor. And I'm only going to do that if, in fact, he's
22 appointed to be the debtor through some legal means. Absent
23 that, you'd better get yourself an interpreter, and have this
24 lady tell us what she needs to tell us about her property.
25 That's why I wasn't very happy when she said she had never seen

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1 this petition before.

2 MR. SCHOLL: Well, that's because --

3 THE COURT: She allegedly signed --

4 MR. SCHOLL: -- she doesn't read English, Your Honor.
5 I thought we brought that up.

6 THE COURT: She allegedly signed it.

7 MR. SCHOLL: She doesn't read English. We had an
8 oral discussion. She was sitting right there.

9 THE COURT: She signed the document. You told me she
10 signed the document. She told me she signed the document, and
11 yet --

12 MR. SCHOLL: She did.

13 THE COURT: -- she's never seen it before.

14 MR. SCHOLL: Well, it was all discussed right in
15 front of her.

16 THE COURT: Well, Mr. Scholl, I don't see any reason
17 why this lady cannot provide the information that is needed for
18 me to be able to make a determination with regard to this case.

19 MR. SCHOLL: Well, she can, but I don't think that
20 the fact that she personally cannot answer certain questions
21 disqualifies her from being a debtor, or anything like that.

22 THE COURT: We're talking about pretty basic
23 questions, Mr. Scholl. She didn't -- she didn't recognize her
24 plan.

25 MR. SCHOLL: That's surprising, Your Honor.

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1 THE COURT: It's a plan.

2 MR. SCHOLL: The --

3 THE COURT: That's the whole -- the whole enchilada.
4 She's got to be able to understand her plan, right?

5 MR. SCHOLL: Well, she certainly has to know how much
6 she has to pay.

7 THE COURT: No, she has to understand the plan.

8 MR. SCHOLL: I --

9 THE COURT: You don't get to just --

10 MR. SCHOLL: I think almost no debtors understand the
11 plans particularly since the new form is being used. So I -- I
12 don't think it's a requirement that somebody has to understand
13 everything in a document. They have to know the things that
14 are important. They have to know how much they have to pay.
15 They have to know where to pay. But I don't think there's any
16 law --

17 THE COURT: If there's --

18 MR. SCHOLL: -- or rule or --

19 THE COURT: If anyone is going to explain to me about
20 how this debtor is going to, in fact, rehabilitate this
21 property, it's going to be Mrs. Santiago.

22 MR. SCHOLL: Even if she can't, because she delegated
23 it to her son?

24 THE COURT: She could do it if she had an
25 interpreter, I presume.

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1 MR. SCHOLL: I don't think she could.

2 THE COURT: Because if she can't do it --

3 MR. SCHOLL: Not with an interpreter -- because she
4 isn't doing it, he's doing it. And there's nothing wrong with
5 having him do it.

6 THE COURT: He's not a contractor. He's not an
7 accountant. He's not -- he has no expertise of any sort
8 whatsoever.

9 Just because he does this stuff doesn't mean that I
10 am going to take him as a competent in lieu of the debtor.

11 MR. SCHOLL: Well --

12 THE COURT: Which part of that don't you get, Mr.
13 Scholl?

14 MR. SCHOLL: I know of no rule, law, case --

15 THE COURT: I know of no basis --

16 MR. SCHOLL: -- that says that somebody has to be a
17 professional person to be able to help their parents.

18 THE COURT: I know of no basis for putting him on the
19 stand. You give me a basis for putting him on the stand.

20 MR. SCHOLL: He can explain --

21 THE COURT: Give me a legal basis.

22 MR. SCHOLL: -- what has been going on with this
23 property because he has --

24 THE COURT: What's the basis for that?

25 MR. SCHOLL: -- been delegated by his mother to handle

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1 it, and his father.

2 THE COURT: Do you have a delegation?

3 MR. SCHOLL: Do I have an official document?

4 THE COURT: Are you giving me one?

5 MR. SCHOLL: No, and I don't think it's necessary.

6 But could one be produced? It could be, I suppose.

7 THE COURT: Mr. Scholl, give me a legal basis that
8 allows him to testify. I'm not --

9 MR. SCHOLL: Any witness can testify. There are
10 whole bunch of people that came in here and testified, I don't
11 know who --

12 THE COURT: He's going to testify to what the
13 debtor's going to do in this case. I'm not going to hear that.
14 I want to hear that from a debtor.

15 MR. SCHOLL: If the debtor's delegated somebody else
16 to do it --

17 THE COURT: He -- the debtor doesn't get to delegate
18 the bankruptcy case to another person, Mr. Scholl. They may
19 able to construction work, they may be able to delegate lots of
20 things. They don't get to delegate the bankruptcy case.

21 MR. SCHOLL: Excuse me.

22 (Pause)

23 MR. SCHOLL: Well, she points out to me that it's
24 been mentioned that he has a power of attorney for his father.
25 I haven't seen it, I didn't ask for it. His father was not the

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1 debtor either.

2 THE COURT: Yeah, and I understand the father's not
3 competent, he's sick.

4 MR. SCHOLL: He's competent but he -- he is --

5 THE COURT: Well, no --

6 MR. SCHOLL: He's aged.

7 THE COURT: Nobody's told me whether he's competent
8 or not, you're right. I know he's sick, and he can't be here.

9 MR. SCHOLL: Right.

10 THE COURT: And I'll listen to her.

11 MR. SCHOLL: Well, he could be here.

12 THE COURT: I ain't listening to him. It's as simple
13 as that, Mr. Scholl.

14 MR. SCHOLL: All right. I -- I -- well, I don't know
15 what to say. I mean obviously I'll follow the Court's rulings,
16 you know.

17 THE COURT: I mean I just -- I know of no basis to
18 allow him to get up here and testify.

19 MR. SCHOLL: I don't think you have to be a
20 professional person just to --

21 THE COURT: Why don't you let me hear from Ms.
22 Thurmond with regard to her objection to it? Maybe she has
23 less objection to him than I do.

24 MR. SCHOLL: I'll be glad to hear whatever she has to
25 say.

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1 MS. THURMOND: So, Your Honor, it would be the City's
2 position that this is -- as Mrs. Santiago has said, this is her
3 son. The property is owned -- that is at issue and is really
4 the heart of this case is owned by Mrs. Santiago and her
5 husband who -- he may be sick, but he's not here --

6 THE WITNESS: (Indiscernible).

7 MS. THURMOND: Sir.

8 THE COURT: You need to stop talking or I will put
9 you out again, and we won't have to worry about --

10 THE WITNESS: Because you wouldn't --

11 THE COURT: Would you rather not testify?

12 THE WITNESS: You wouldn't listen to me anyway
13 because you don't want to hear what I have to say anyway, so --

14 THE COURT: All right. Sir --

15 FEMALE SPEAKER: Mr. Santiago, stop.

16 THE COURT: I'm sorry. Mr. Santiago, you really
17 don't want to do this.

18 THE WITNESS: Okay.

19 MS. THURMOND: So it's the City's position he's
20 really a non-party. He is not the property owner, he's not the
21 property owner, he's not the debtor's -- the heart of the
22 City's motion is this is a bad faith filing by the debtor.
23 This is a bad faith filing to prevent the conservatorship
24 trial.

25 It really turns on what the debtor's intention is in

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1 this bankruptcy. I think the person to speak to that is Mrs.
2 Santiago. I mean she was on the stand. I know it was
3 difficult because of the language barrier, and I tried the best
4 I could, and I know that she tried the best she could to listen
5 to the questions, and we got through it. I just don't think
6 it's appropriate for a non-party who has no interest in this
7 bankruptcy case to be testifying.

8 Mrs. Santiago is right here. She can get on the
9 stand and answer whatever questions Mr. Scholl has.

10 MR. SCHOLL: She couldn't do it nearly as well as her
11 son because she's delegated to her son. There's nothing wrong
12 with that, and he doesn't have to be a professional person. He
13 doesn't have to be a lawyer or an architect to be able to do
14 things on her behalf.

15 THE COURT: He doesn't, but he has to be -- he has to
16 be a reasonable facsimile that's -- that's my debtor, and my
17 debtor's sitting right here. I don't need another party. If
18 you have questions, you can ask Mrs. Santiago.

19 MR. SCHOLL: Well --

20 THE COURT: Let me be very clear, Mr. Scholl --

21 MR. SCHOLL: I don't think it would be very
22 effective.

23 THE COURT: -- this whole case is about whether or
24 not your clients actually intend to do anything with this
25 property, or whether this is just yet another attempt on their

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1 part to evade the City fines, etc. And that's what we have to
2 figure out.

3 And I could only figure it out if I can hear from her
4 as to what she's doing. I heard two different stories today as
5 to what's happening here, and I'd like to know which one's
6 true.

7 MR. SCHOLL: Okay. I don't know if I could break it
8 down into two different stories, but okay. Whatever. The only
9 thing I could tell you is this. There's been no evidence that
10 there was any problem with a prior case that these -- same
11 woman filed. The same -- the same situation.

12 THE COURT: Understood.

13 MR. SCHOLL: I was not counsel.

14 THE COURT: Understood.

15 MR. SCHOLL: But -

16 THE COURT: There was no evidence -- there was no
17 evidence as to any problems with the prior Chapter 13, you're
18 absolutely correct.

19 MR. SCHOLL: The only thing we know is it was
20 confirmed without an objection.

21 THE COURT: The argument that they're making is that
22 the bad faith arises from the prior activities with the
23 Santiagos and the City, not from prior bankruptcies, that's not
24 their argument.

25 MR. SCHOLL: Well, maybe that's -- I -- I -- I'm not

1 sure what it is, but you may be right. Maybe that's more of
2 their argument. But they paid over \$50,000, they didn't mind
3 accepting that --

4 MS. THURMOND: Your Honor --

5 MR. SCHOLL: -- you know?

6 MS. THURMOND: This is not time for a closing
7 argument.

8 THE COURT: I understand.

9 MR. SCHOLL: Excuse me? I couldn't hear that.

10 THE COURT: Mr. Scholl, she was just suggesting that
11 we aren't going to be -- we aren't engaged in closing argument
12 at this point.

13 MR. SCHOLL: Well --

14 THE COURT: So I -- here's what I'm telling you, Mr.
15 Scholl: Put Mrs. Santiago on the stand.

16 MR. SCHOLL: I can try.

17 THE COURT: Okay.

18 MR. SCHOLL: f you insist.

19 THE COURT: All right.

20 MR. SCHOLL: Mrs. Santiago --

21 THE COURT: Mr. Santiago, you may step down.

22 Mrs. Santiago, if you'll come back up here. Please
23 remember that you've already been sworn.

24 MRS. SANTIAGO: I don't -- excuse me, Your Honor --

25 MR. SCHOLL: Ms. Santiago --

1 MRS. SANTIAGO: Excuse me, Your Honor.

2 MR. SCHOLL: -- you're going to have to go up there.

3 MRS. SANTIAGO: Excuse me, Your Honor.

4 MR. SCHOLL: Whether you like it or not.

5 MRS. SANTIAGO: I give you the permit to my son, is
6 my son. Is my son.

7 THE COURT: I don't -- Mrs. Santiago --

8 MRS. SANTIAGO: Is my son. I -- is my son --

9 THE COURT: Mrs. Santiago, you --

10 MRS. SANTIAGO: You hear, he -- he know English --

11 THE COURT: If you don't want me to dismiss your case
12 immediately --

13 MRS. SANTIAGO: He know English -- (indiscernible)
14 say something -- say something that is not supposed to say it
15 and simply in writing and then I go to be in trouble with the -
16 - with this --

17 THE COURT: Mr. Scholl --

18 MRS. SANTIAGO: You not want him --

19 THE COURT: -- if your client is not quiet, I will,
20 in fact, dismiss the case.

21 MRS. SANTIAGO: What I saying is -- Your Honor --

22 MS. BLOOM: Your Honor, could we have a brief recess?

23 MRS. SANTIAGO: -- okay --

24 MR. SCHOLL: She's very upset.

25 MRS. SANTIAGO: Because --

1 THE COURT: You better -- if you can get her out of
2 here --

3 MRS. SANTIAGO: (Indiscernible) she says something
4 that I don't understand I say yes, I say no --

5 MR. SCHOLL: Walk her out of the courtroom.

6 MRS. SANTIAGO: That's the problem, that's why I have
7 my son.

8 THE COURT: Mrs. Santiago --

9 MRS. SANTIAGO: He's my son.

10 THE COURT: Mrs. Santiago, listen to me. If you do
11 not stop right now --

12 MRS. SANTIAGO: Okay. I'm gonna stop it, but I can -
13 -

14 THE COURT: -- I am going to dismiss your case, which
15 is not what you want to happen.

16 MR. SANTIAGO: You're probably going to do it anyway.

17 THE COURT: So go out in the hall and get quiet. Go
18 ahead, have a seat, do whatever you want.

19 MR. SCHOLL: If we could have a short recess.

20 MS. THURMOND: How long of a recess would Your Honor
21 like?

22 MS. BLOOM: Five minutes, please?

23 THE COURT: Certainly long enough for a comfort
24 break, but that's it. You guys get five minutes, and that's
25 it.

1 MS. THURMOND: Very good, Your Honor.

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3 (Recess 4:21 p.m./Reconvene 4:28 p.m.)

4 MS. THURMOND: Do you have a morning -- oh, your list
5 is now Wednesday.

6 THE COURT: Um?

7 MS. THURMOND: Your -- your Chapter 13 list is now
8 Wednesday.

9 THE COURT: Is now Wednesday. So we could do it at
10 9:30 on either morning, either day. The 24th or the 31st.

11 MS. THURMOND: I have Chapter 13 matters, but I could
12 find somebody else in my office to cover them.

13 MR. BIELLI: Um --

14 MR. SCHOLL: The 31st is better for me, Your Honor.

15 THE COURT: Okay. Mr. Santiago, are you okay on the
16 31st? You and your mom okay on the 31st?

17 MR. SANTIAGO: 31st is good, too.

18 MRS. SANTIAGO: Yeah, 31st.

19 THE COURT: Okay. Hang on, we're checking with
20 everybody else.

21 MR. BIELLI: I have no preference.

22 MR. SCHOLL: Well --

23 MRS. SANTIAGO: And the 31st, Your Honor, and my son
24 can speak that time?

25 THE COURT: Talk to your counsel.

1 MR. SCHOLL: Well, my wife indicates that she --
2 she's not available on the 31st, and I'd like her to be here.

3 THE COURT: Okay. Are we back to the 24th? Does
4 that work for everybody, too?

5 MR. BIELLI: 24th works for my end, Judge.

6 MR. SCHOLL: Do you have any other date?

7 THE COURT: 24th work for you all?

8 MR. SANTIAGO: No, it doesn't.

9 THE COURT: Oh. Okay, I think we're going to have to
10 do without your wife, Mr. Scholl, okay? May 31st at 9:30.

11 MS. BLOOM: Yes, Your Honor.

12 THE COURT: If there are any exhibits, please be here
13 by 9 o'clock to have them marked.

14 (Pause)

15 THE COURT: If there's a problem with the interpreter
16 on that date, Mr. Scholl, notify the other parties and then get
17 a hold of Joan.

18 MS. BLOOM: Your Honor, one minor housekeeping issue.
19 I understand that Mr. Scholl has a hearing date on for this
20 Wednesday at 9:30 relating to an extension of the automatic
21 stay. Will that hearing go forward, or will we put it all over
22 until the continued hearing date on the 31st?

23 THE COURT: That hearing would have to go forward,
24 because otherwise he loses his stay, so --

25 MS. BLOOM: Understand.

1 THE COURT: -- he'll have to at least -- he'll have
2 to at least have the hearing. I don't know -- have there be
3 any extensions filed to the extension of the stay?

4 MR. SCHOLL: No, Your Honor, although it -- there's
5 kind of a short period because the date -- there's only about
6 12 days' time, so I couldn't file a certification of no
7 objection.

8 THE COURT: No, no, I mean if the -- there's enough
9 time. He's given enough time. Yeah, so no, we don't need an
10 adjournment. If somebody shows up and objects, we'll deal with
11 the objection. If they don't show up and object, we'll enter
12 the order.

13 MR. SCHOLL: All right. So I don't need an
14 interpreter for Wednesday, is that right?

15 THE COURT: I can't -- Mr. Bielli, speak.

16 MR. BIELLI: I think we're objecting, Your Honor.

17 THE COURT: You think you're objecting, all right.
18 So we've got --

19 MS. BLOOM: We will be, yes.

20 MR. BIELLI: We will be objecting is what Ms. Bloom's
21 telling me.

22 MS. THURMOND: And I would note for Your Honor that
23 the date for which people to file objections is the hearing
24 date, so --

25 THE COURT: I don't recollect all of the premises

1 that were stated, so what I would ask is that you all talk to
2 Mr. Scholl with regard to what your objection is so that he can
3 be comfortable. Or you can either agree that you're willing to
4 accept the arguments that he's -- that are made in the motion
5 without further testimony, but that your argument doesn't
6 matter, that you still think it shouldn't be granted. Okay, so
7 you all will talk.

8 MR. SCHOLL: We'll talk, Your Honor.

9 THE COURT: All right.

10 MS. THURMOND: Thank you, Your Honor.

11 MS. BLOOM: Yes, Your Honor; thank you.

12 THE COURT: Very good.

13 MR. BIELLI: What's that, Your Honor? If --

14 THE COURT: If, in fact, we need to -- we -- hello,
15 everybody? If, in fact, we do need an interpreter for that
16 hearing, then let Joan know, we'll cancel that, we'll do an
17 interim order granting it, and moving it to the 31st.

18 MR. SCHOLL: All right.

19 THE COURT: Okay?

20 MR. SCHOLL: Okay.

21 THE COURT: But we'll do an interim order that will
22 grant it through the order on the 31st.

23 MR. SCHOLL: All right. We'll see --

24 MR. BIELLI: May I, Judge? Can we agree on an
25 interim order now? It's one -- I think it's one day, Your

1 Honor.

2 MR. SCHOLL: Well, I don't know if it's one day, but
3 I -- if he wants to agree that's fine.

4 MS. THURMOND: The City would also agree to entering
5 an order which would give -- extend the stay to the date of the
6 hearing on the 31st.

7 THE COURT: That's -- that's what our interim order
8 stated.

9 MS. BLOOM: Yes.

10 MS. THURMOND: Yes; I'm sorry, Your Honor. It's late
11 in the day.

12 (Laughter)

13 THE COURT: I understand.

14 MR. BIELLI: Not an interim order, just a bridge
15 order would be better.

16 THE COURT: I understand, all right. So, Joan, we
17 will do an interim order. You don't have to even come at all
18 on Wednesday; how is that?

19 MR. SCHOLL: All right.

20 THE COURT: Life is good.

21 MR. SCHOLL: Okay; thank you, Your Honor.

22 THE COURT: All right? I will see you all on the
23 31st.

24 MS. BLOOM: Thank you, Your Honor.

25 MS. THURMOND: Thank you, Your Honor.

1 THE COURT: Thank you. Don't wait for me because
2 I've got paperwork and stuff to do here, so -- make sure I've
3 got everything.

4 MS. THURMOND: (Indiscernible - not at microphone).

5 THE COURT: What I'm going to do --

6 MS. THURMOND: Sure, I have --

7 THE COURT: What we're going to do, Ms. Thurmond,
8 we'll give them -- we're going to give them all back to you.

9 MS. THURMOND: I'm sorry. Ms. Jackson was also
10 speaking.

11 THE COURT: That's all right. No, we're going to
12 give them all back to you, and then if you -- when you come
13 back on the 31st, if you'd bring us versions that have only the
14 ones that have been admitted.

15 MS. THURMOND: Oh, that's a very good solution,
16 rather than having to do it right now.

17 THE COURT: Exactly.

18 (Whereupon, at 4:34 p.m., the hearing was adjourned.)
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CERTIFICATE OF TRANSCRIBER

I, KAREN HARTMANN, a certified Electronic Court Transcriber, certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A rectangular box containing a handwritten signature in cursive script that reads "Karen Hartmann".

Karen Hartmann, AAERT CET**D0475 Date: July 17, 2018
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